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1 MS. JOHNSON: Judge, yes, the technical
2 people are on their way. I don't know how to use it,
3 but we'll certainly provide it.

4 MR. SCHECHTER: Just so the Court
5 understands, because I'm also a technological retard, I
6 usually use my computer in my office where it's easy
7 because I have a mouse because in this particular DVD,
8 a copy of which counsel has been given, I have -- there
9 are individual very short clips within it so you would
10 have to point and click to turn on this particular
11 little video within the video. So I want to make sure
12 that this DVD has that capability. I mean, I use my
13 computer so I guess it does.

14 THE COURT: I mean, depending on how we
15 proceed, I would obviously -- my intention is probably
16 to take a break after her direct. If you're able to
17 get your -- this machine running to the way you need it
18 to run, then we'll begin cross-examination, depending
19 upon what time we're looking at.

20 If not, I may just adjourn cross-examination
21 until tomorrow.

22 MS. JOHNSON: I don't see us finishing her
23 direct today anyway.

24 THE COURT: At this point I think it's
25 doubtful we're going to get to cross.

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1 MR. SCHECHTER: The reason I mention that is
2 because I will then ask my client -- I can't bring a
3 whole computer thing here, but maybe if you could bring
4 a computer or another DVD. I don't have a portable DVD
5 here nor in my office, so --

6 THE COURT: Whatever you want to bring in,
7 Mr. Schechter, that you feel is going to be user
8 friendly to yourself, you know, bring it in.

9 MR. SCHECHTER: If counsel could at least,
10 before the end of the day, have that DVD brought in we
11 could see if we can get it to work.

12 MS. JOHNSON: As soon as they get here I'll
13 have them --

14 THE COURT: Or, if not, at the end of the day
15 you can go over to her office and see if it satisfies
16 your needs.

17 The other issue I want to just address, since
18 the complainant is going to be testifying, I've given
19 you both a sample, if you will, of a proposed Molineaux
20 charge that I intended to give the jury after her
21 direct testimony as well as in the final instructions
22 to the jury.

23 Mr. Schechter, I understand that obviously
24 you've had an objection to any of this evidence coming
25 in.

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1 MR. SCHECHTER: Yes.

2 THE COURT: And I think that's obviously
3 quite clear.

4 The issue I have now is -- because at one
5 point during the course of my ruling with respect to
6 this pretrial ruling with respect to this evidence you
7 indicated that you would not be asking for such a
8 charge and if that was the case, obviously, I would not
9 do it over your objection.

10 Do you now wish for me to charge what I
11 proposed here?

12 MR. SCHECHTER: Well, so that the record is
13 crystal clear, and I want every possible preservation
14 issue to be as minimal as possible, I still
15 vociferously object to this testimony going in.

16 As counsel even stated it during her opening
17 I objected to that as well, but since the Court has
18 already made a determination that this material is
19 going in, I think the only conceivable minimization of
20 that error would be, in the very least, this
21 prospective charge the Court was to give the jury with
22 the one proviso, and I would ask this be marked a Court
23 exhibit, of course --

24 THE COURT: Yes.

25 MR. SCHECHTER: -- that on the second

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1 paragraph, the third line down, the words in Nassau
2 County be deleted so that it would say commit any
3 crime, period.

4 So that the record is clear, again, over
5 objection that these -- that this information is being
6 presented before the jury, nevertheless the proposed
7 charge to the jury by the Court, if I should read it
8 into the record, I would rather not encumber it if I
9 don't have to --

10 THE COURT: Well, the charge will be read --
11 it will be marked a Court exhibit. It will be read to
12 the jury. I don't think it's necessary to have to read
13 it into the record now.

14 If at some point I do not read the charge as
15 it appears currently, and I will grant your application
16 to excise the words in Nassau County, obviously bring
17 that to my attention.

18 But, just so it's clear, you are asking for
19 this charge, even though you're not -- obviously,
20 you're not waiving your objection to the testimony this
21 charge relates to.

22 MR. SCHECHTER: I'm constrained to ask for
23 this charge, yes, Judge.

24 THE COURT: And it's my intention to do it
25 both after Ms. Awan testifies as well as during the

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1 course of my closing instructions.

2 So we'll mark -- what I'm going to do is have
3 my law secretary take out the words in Nassau County
4 and we'll mark that as a Court exhibit.

5 MR. SCHECHTER: Was that Court Exhibit 1,
6 your Honor?

7 THE COURT: No, I think we may be up to 4.

8 (Pause in the proceedings.)

9 (Jury enters.)

10 THE COURT: Okay, all right, have a seat.

11 Members of the jury, welcome back. We --
12 this last couple of minutes or so we were just trying
13 to get this video and TV camera kind of set up so we
14 don't have any problems once we play it, but I think
15 we're ready to go.

16 Ms. Johnson?

17 MS. JOHNSON: Yes, your Honor. At this time
18 the People are going to play what's been marked in
19 evidence as People's Exhibit 1.

20 Judge, I'm just going to move my chair so --

21 THE COURT: Yes.

22 Do you need Mr. Hughes to move at all?

23 MS. JOHNSON: Not at this time.

24 Q. Can you see, Mr. Hughes?

25 A. Yeah.

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1 THE COURT: If you can't, if you want to move
2 over to that corner --

3 THE WITNESS: Yes, I may just, thank you.
4 (Witness steps down.)

5 (People's Exhibit 1 published to the jury at
6 this time.)

7 (Witness resumes the stand.)

8 MS. JOHNSON: Your Honor, I'm going to ask
9 that this be marked as People's Exhibit 2 for
10 identification?

11 THE COURT: People's 2.

12 (People's Exhibit 2 marked for
13 identification.)

14 Q. Mr. Hughes, if you could take a look at People's 2
15 for identification?

16 (Shown to witness.)

17 Q. Do you recognize that?

18 A. I do.

19 Q. What do you recognize that to be?

20 A. These are the Miranda warnings that were given to
21 Mr. Gopaul on the 24th of June, 2008.

22 Q. How do you know that?

23 A. Well, I recognize my handwriting and also I can
24 tell by the information on here that that's what this is.

25 Q. Is that the Miranda card that is depicted in the

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1 video in People's Exhibit 1 in evidence?

2 A. That's correct.

3 Q. Is that the original?

4 A. Yes, it is.

5 Q. And is that in the same or substantially the same
6 condition it was back on June 24th, 2008?

7 A. It's exactly the same.

8 MS. JOHNSON: Your Honor, at this time we
9 would ask that People's 2 be moved into evidence.

10 THE COURT: Show it to Mr. Schechter.

11 MS. JOHNSON: With the caveat, your Honor,
12 there is writing on the back of that document unrelated
13 to this matter.

14 THE COURT: Yes.

15 (Shown to counsel.)

16 THE COURT: All right, so without objection,
17 People's 2 received in evidence.

18 (People's Exhibit 2 received in evidence.)

19 (Shown to witness.)

20 Q. Mr. Hughes, if you could please take a look at
21 People's Exhibit 2?

22 A. Yes.

23 Q. If you could tell the jury whose handwriting
24 appears on that document and when referencing the
25 handwriting please tell us what you're referring to?

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1 A. Sure. Next to each of the numbers there's --
2 there appear initials. Those are the initials by
3 Mr. Gopaul.

4 Where it says location and 105th Precinct as well
5 as date, that's my less-than-stellar handwriting.

6 And then defendant, Harold Gopaul, is Mr. Gopaul's
7 signature.

8 Where it says officer here, that's
9 Detective Shulman, and where it says witness, that's
10 ADA Rosenblatt's.

11 Q. Can you tell us who wrote the word yes after each
12 Miranda question?

13 A. That would be Mr. Gopaul.

14 Q. Did you observe him write the word yes?

15 A. I did observe it. It was on the videotape.

16 Q. And did you observe Mr. Gopaul, the defendant,
17 signing his name to that document?

18 A. I did.

19 MS. JOHNSON: Your Honor, just due to my own
20 technical difficulties, can I have that published to
21 the jury now?

22 THE COURT: Yes -- the People's 2?

23 MS. JOHNSON: Yes, please.

24 (People's Exhibit 2 published to the jury at
25 this time.)

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1 THE COURT: Okay.

2 MS. JOHNSON: Thank you, Judge.

3 Your Honor, I have no other questions for
4 Mr. Hughes.

5 THE COURT: Mr. Schechter?

6 CROSS-EXAMINATION

7 BY MR. SCHECHTER:

8 Q. Mr. Hughes, at what time did you get to the
9 105 Precinct on June 24th, 2008?

10 A. I don't recall the specific time. I would say it
11 was in the neighborhood of 4 o'clock.

12 Q. So you were at the precinct over one hour prior to
13 speaking to Mr. Gopaul, is that correct?

14 A. More or less.

15 Q. And did you have occasion to speak to the
16 complaining witness at that time?

17 A. I actually spoke to her at a couple of different
18 points.

19 Q. And did you take any notes with respect to your
20 conversations with her?

21 A. I memorialized anything about those conversations
22 in my District Attorney enhancement sheet.

23 Q. In your what?

24 A. My District Attorney enhancement sheet.

25 Q. I see. Has that been provided to counsel?

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1 A. It has.

2 Q. And do you know how long Mr. Gopaul had been in
3 custody up to that point?

4 A. I don't recall.

5 Q. So that you don't know if Mr. Gopaul was already
6 in custody ten hours, nine hours, 12 hours?

7 You don't have any idea of your own knowledge, do
8 you?

9 A. I don't of my own when Mr. Gopaul was put into
10 custody.

11 Q. And do you have any idea when Mr. Gopaul's last
12 sleep was prior to your talking to him on this statement?

13 A. I don't have any independent knowledge of that,
14 no.

15 Q. And you didn't ask him that on the videotape, did
16 you?

17 A. No, I did not.

18 Q. Do you know when the last time Mr. Gopaul had
19 anything to eat prior to that statement?

20 A. I don't, specifically, no.

21 Q. And you did observe Mr. Gopaul as you were talking
22 to him, did you not?

23 A. Yes, I did.

24 Q. And you did notice that Mr. Gopaul's shirt was
25 widely spread apart, the lapels of Mr. Gopaul's shirt were

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1 spread wide apart, did you not?

2 A. Yes, I believe his shirt was unbuttoned.

3 Q. More than unbuttoned -- do you need to have your
4 recollection refreshed by looking --

5 A. I recall that his shirt was open, the first two
6 buttons.

7 Q. Fairly widespread apart?

8 A. I don't know wide. It looked like there were two
9 buttons on top.

10 Q. Would you like to see it again to refresh your
11 recollection as to how wide his collar was spread part?

12 A. If you would like me to.

13 Q. If you would, just at the beginning?

14 MR. SCHECHTER: Would you mind, counsel?

15 MS. JOHNSON: I just have to rewind it.

16 THE COURT: Yes.

17 MR. SCHECHTER: Fine.

18 Q. Now, Mr. Hughes, would you please step down so you
19 can get a better view?

20 MR. SCHECHTER: I would like you to freeze
21 the shot when the focus is on Mr. Gopaul.

22 Q. Could you please step down?

23 A. Certainly.

24 THE COURT: Please step down.

25 (Witness steps down.)

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1 Q. All right, thank you.

2 (People's Exhibit 1 published at this time.)

3 THE WITNESS: Should I return?

4 THE COURT: No, I think he wants to ask you
5 some questions.

6 Q. I direct your attention to the collar. There's
7 one collar here to the right and another collar all the way
8 over here to the left.

9 Is that how he appeared to you when you first saw
10 him?

11 A. That's how he appeared to me.

12 Q. Do you know, to your own recollection, if that's
13 how he appeared when he first got to the 105 Precinct?

14 A. I don't know how he appeared.

15 THE COURT: Mr. Schechter, do you have any
16 more questions?

17 MR. SCHECHTER: I have no more with respect
18 to that.

19 THE COURT: Why don't you come back to the
20 witness stand?

21 THE WITNESS: Thank you.

22 (Witness resumes the stand.)

23 Q. So you, of your own knowledge, have no idea
24 whether Detective Shulman caused his collar to look like
25 that by throwing him across the room, do you?

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1 MS. JOHNSON: Objection.

2 THE COURT: I'll allow it.

3 A. I didn't see him when he arrived at the precinct.

4 Q. And you don't know what, if anything, the other
5 police officers did when he first came into the precinct, do
6 you?

7 A. Again, I wasn't there when he first arrived.

8 Q. So that when you said on direct in response to the
9 District Attorney's question did anybody use physical
10 violence against Mr. Gopaul, you don't really know that of
11 your own knowledge do you?

12 A. I didn't monitor Mr. Gopaul the entirety of the
13 time he was at the precinct or before that.

14 However, Mr. Gopaul never made any applications to
15 me that any physical violence was used and the officers
16 indicated no physical violence was used.

17 Q. You're not answering my question.

18 I'm saying you, of your own knowledge, did not
19 view Mr. Gopaul when he first came into the precinct?

20 A. As I explained, Mr. Schechter --

21 Q. That's a yes or no, Mr. Hughes, and I'm sure
22 you're aware of how to answer yes or no?

23 A. I am.

24 I never saw any physical violence taken towards
25 Mr. Gopaul.

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1 However, I did not see him the entire time he was
2 at the precinct.

3 Q. Now, you were aware that Mr. Gopaul had made two
4 other statements, weren't you?

5 A. I don't have independent recollection of that.

6 Q. You said you spoke to Detective Shulman, did you
7 not?

8 A. I did.

9 Q. And prior to speaking to Mr. Gopaul when you spoke
10 to Detective Shulman Detective Shulman told you that
11 Mr. Gopaul made two other statements, did he not?

12 A. I don't have an independent recollection of that.

13 Q. How long a period of time did you speak to
14 Detective Shulman?

15 A. I probably spoke to Detective Shulman, off and on,
16 for a period of maybe 15 to 20 minutes.

17 Q. And he showed you no statement that Mr. Gopaul
18 made before that?

19 A. As I said, I don't have an independent
20 recollection of that.

21 Q. In your years as an Assistant DA, two years, have
22 you ever known any cases of police brutality?

23 MS. JOHNSON: Objection.

24 THE COURT: Yeah, sustained.

25 Q. Have you ever prosecuted cases of police

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1 brutality?

2 MS. JOHNSON: Objection.

3 THE COURT: Yeah, sustained.

4 MR. SCHECHTER: I would like these marked,
5 with the Court's permission, defendant's exhibits. I
6 believe we are A,B,C and D, please?

7 THE COURT: Defendant's A through D.

8 MR. SCHECHTER: They're marked differently
9 from the other proceeding.

10 May I approach?

11 THE COURT: Yes.

12 These have already been marked A through D?

13 MR. SCHECHTER: No.

14 COURT REPORTER: I'll remark them, your
15 Honor.

16 (Defendant's Exhibits A through D marked for
17 identification.)

18 MR. SCHECHTER: Respectfully ask they be
19 shown to the witness.

20 (Shown to witness.)

21 Q. Now, do you recognize those photographs?

22 A. They appear to be photographs of the
23 105th Precinct.

24 Q. Now, I direct your attention to Photographs B, C
25 and D.

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1 A. Yes.

2 Q. That wasn't the room where you had this video
3 taken of Mr. Gopaul, was it?

4 A. It doesn't appear to be, no.

5 Q. As a matter of fact, this is a much smaller room,
6 isn't that so?

7 A. It does appear to be a smaller room.

8 Q. Would you know in your experience as an Assistant
9 District Attorney if that's called the soften-them-up room
10 or the box?

11 MS. JOHNSON: Objection.

12 THE COURT: No, I'll allow that, if he knows.

13 A. I actually haven't heard that term used.

14 Q. Never heard that term used?

15 A. I haven't.

16 Q. You've never known police officers to soften up a
17 subject to get them to talk, have you?

18 MS. JOHNSON: Objection.

19 THE COURT: Sustained.

20 MR. SCHECHTER: I have no more questions of
21 this witness, your Honor.

22 THE COURT: Any redirect?

23 MS. JOHNSON: Just two questions.

24 REDIRECT EXAMINATION

25 BY MS. JOHNSON:

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1 Q. Mr. Hughes, you indicated -- you remember
2 Mr. Schechter asking you questions about speaking to Sana
3 Awan?

4 A. Yes, I do.

5 Q. Did you ever tell the defendant the details of
6 what Sana reported to you before that video was taken?

7 A. No.

8 Q. Did you ever show the defendant any statements
9 Sana gave you before that video was taken?

10 A. No, I did not.

11 Q. Did you ever tell the defendant any time periods
12 of which Sana reported to you before that video was taken?

13 A. No, I did not.

14 MS. JOHNSON: Nothing else.

15 THE COURT: Anything else, Mr. Schechter?

16 MR. SCHECHTER: If I could have just one
17 moment, Judge?

18 THE COURT: Yes.

19 (Pause in the proceedings.)

20 THE COURT: Ladies and gentlemen, while
21 Mr. Schechter is looking for something, I understand an
22 issue has come up with regard to jurors taking notes.
23 I don't know whether some or all of you made inquiry
24 with regard do that.

25 I just want to address it while we have a

1 moment.

2 In the first place, as I'm sure you've all
3 figured out, Wendy, our court reporter, is taking down
4 everything that's being said here and one of the
5 reasons I have, on occasion, depending on the length of
6 the trial, allowed jurors to take notes -- it's not
7 that it's completely prohibited, but I think under
8 these circumstances in this particular case, I don't
9 see it to be terribly necessary.

10 Let me just explain a couple of reasons why
11 taking notes has its, if you will, drawbacks or
12 disadvantages.

13 Number one, you, as the fact finder, if
14 you're busy taking down notes of what somebody says,
15 you don't have an opportunity to see the witness and
16 see their demeanor, how they're saying things, because
17 that's one of the things that you're asked to assess as
18 a juror.

19 Number two, perhaps most importantly, is the
20 danger that one of you may take down something and it's
21 not correct and then you've got -- the last thing we
22 want to have happen is have a jury deliberation where
23 someone may be basing their decision based upon a note
24 that they took that wasn't exactly accurate.

25 That's why we have a court reporter and it's

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1 important to keep in mind that during your
2 deliberations if at any point in time you request a
3 particular witness's testimony to be read back, if you
4 want a particular exhibit that's been introduced into
5 evidence, we'll be more than glad to do that, the
6 entirety of the witness's testimony or any portion
7 thereof.

8 So I don't want you to think that you don't
9 have the opportunity to revisit, if you will, during
10 your deliberations, what people are saying during the
11 course of the trial.

12 So I just want everybody to kind of be rest
13 assured about that. I think it's more important for
14 you to listen to what they're saying, watch how they
15 say it and keep in mind that if there's some issue that
16 you are having some difficulty resolving, we've got
17 everything that's been said here. So don't worry about
18 it.

19 Mr. Schechter?

20 MR. SCHECHTER: Yes.

21 I would like this deem marked or have this
22 marked as Defendant's E for identification, please?

23 (Defendant's Exhibit E marked for
24 identification.)

25 MR. SCHECHTER: Please show that to the

WS

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1 witness.

2 (Shown to witness.)

3 RECROSS-EXAMINATION

4 BY MR. SCHECHTER:

5 Q. Now, are those your notes with respect to the
6 witness Sana Awan?

7 A. No.

8 MR. SCHECHTER: Thank you. No more
9 questions.

10 THE COURT: Mr. Hughes, thank you very much.
11 You're excused. Just watch your step as you step off.

12 THE WITNESS: Thank you, your Honor.
13 (Witness excused.)

14 THE COURT: People, your next witness?

15 MS. JOHNSON: Your Honor, at this time the
16 People call Sana Awan.

17 S A N A A W A N, a witness called on behalf of the
18 People, having been first duly sworn by the clerk of
19 the Court, was examined and testified under oath as
20 follows:

21 COURT OFFICER: Have a seat.

22 For the record, please state your name, spell
23 your first name, your last name and your county of
24 residence, just your county.

25 THE WITNESS: Sana Awan, S-a-n-a, A-w-a-n,

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1 and Queens County.

2 THE COURT: All right, Ms. Awan, I'm going to
3 ask you -- it's a small courtroom, but I need you to
4 keep your voice up as if you're talking to somebody
5 sitting in the back of the courtroom. Okay, if you
6 need to move that mike closer, please do.

7 THE COURT: Ms. Johnson?

8 MS. JOHNSON: Thank you.

9 DIRECT EXAMINATION

10 BY MS. JOHNSON:

11 Q. Sana, just keep your voice up so we can all hear
12 you back here.

13 A. Okay.

14 Q. How are you doing today?

15 A. Okay.

16 Q. How old are you?

17 A. Eighteen.

18 Q. When is your birthday?

19 A. March 1st, 1991.

20 Q. Are you going to school now?

21 A. Yes.

22 Q. Where are you going to school?

23 A. Queens High School of Teaching.

24 Q. What grade are you in?

25 A. I'm in 12th grade.

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1 Q. Are you graduating this year?

2 A. Yes.

3 Q. How are your grades?

4 A. As and Bs.

5 Q. Are you planning on going to college in the fall?

6 A. Yes.

7 Q. Have you been accepted already?

8 A. Yes.

9 Q. Are you okay telling us where you're going to
10 college in the fall?

11 A. No.

12 MR. SCHECHTER: Objection to --

13 THE COURT: Yeah, sustained. The question
14 and answer will be stricken.

15 Have a seat, Mr. Schechter.

16 MR. SCHECHTER: I have a motion, Judge.

17 THE COURT: Come on up.

18 (Witness steps down.)

19 (Conference held at the bench as follows:)

20 MR. SCHECHTER: I think that's -- counsel
21 knew when she asked that question that was a highly
22 inflammatory question. She is trying to raise the
23 impression to the jury my client is being allegedly
24 improper and I submit that is prosecutorial misconduct.
25 I ask for a mistrial.

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1 THE COURT: Do you want to respond to that?

2 MS. JOHNSON: I asked the question. She
3 wasn't comfortable answering it. It's not appropriate
4 for a mistrial and your Honor struck the answer from
5 the record.

6 THE COURT: Okay. I mean, at this point I
7 don't see the prejudicial effect, if there is any, to
8 be of such a nature to require a mistrial. If you
9 want, Mr. Schechter, I will repeat to the jury to
10 disregard the question and answer.

11 MR. SCHECHTER: Might as well, Judge, but I
12 don't think any curative instruction will work.

13 (Sidebar conference concludes.)

14 THE COURT: Ms. Awan, step back up.

15 (Witness resumes the stand.)

16 THE COURT: Remember during my instructions I
17 said sometimes when an objection has been made a
18 witness gives an answer before I could say either
19 objection sustained or overruled?

20 In this case obviously the question and the
21 answer -- the objection was sustained, the answer is
22 stricken and I'm directing you to please totally
23 disregard the answer and keep it out of your minds.

24 MS. JOHNSON: Thank you.

25 Q. Sana, do you have any brothers and sisters?

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1 A. Yes.

2 Q. How old are they and what are their names?

3 A. My sister's name is Kaitlin and she's nine and my
4 brother's name is Darien, he's eight.

5 Q. I'm just going to ask you to keep your voice up.

6 THE COURT: Ms. Awan, if you would, just keep
7 your voice up. If you could move that microphone a
8 little bit closer to you, but just keep the volume of
9 your voice up a little bit.

10 Go ahead, Ms. Johnson.

11 MS. JOHNSON: Thank you.

12 Q. Sana, what is your mom's name?

13 A. Merlin Ali Gopaul.

14 Q. Is she your biological mother?

15 A. Yes.

16 Q. And is she the biological mother to your two
17 siblings?

18 A. Yes.

19 Q. Who is your mom married to?

20 A. Harold Gopaul.

21 Q. Is Harold Gopaul your stepfather?

22 A. Yes.

23 Q. Do you see Harold Gopaul in the courtroom today?

24 A. Yes.

25 Q. Can you please point to him and identify an item

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1 of clothing that he's wearing?

2 A. He's wearing the suit.

3 Q. You just have to be a little more specific.

4 MR. SCHECHTER: I'll concede she's
5 identifying the defendant.

6 THE COURT: All right, the record will
7 reflect that.

8 Go ahead.

9 Q. Do you know when your mom married the defendant?

10 A. I believe it was 1994?

11 Q. How old were you?

12 A. Three.

13 Q. Did you have a relationship with your biological
14 father?

15 A. Yes.

16 Q. Who was the father figure in your life since the
17 time you were three years old?

18 A. My stepfather.

19 Q. Harold Gopaul?

20 A. Yes.

21 Q. Up until 2008 where were you living?

22 A. With my parents.

23 Q. And when you say your parents, who are you
24 referring to?

25 A. My biological mother and my stepfather.

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1 Q. Where were you living?

2 A. You want the address?

3 Q. Yes.

4 A. 242-10 89th Avenue, Bellerose, New York, 11426.

5 Q. That's Queens?

6 A. Yes.

7 Q. Did your siblings live with you there?

8 A. Yes.

9 Q. Can you tell us what your relationship was like
10 with your stepfather as you were growing up?

11 A. It was a normal father-daughter relationship.

12 Q. What does that mean?

13 A. Like -- can you be more specific?

14 MR. SCHECHTER: Can't hear her, Judge.

15 THE COURT: She said, "Can you be more
16 specific," a question directed at Ms. Johnson.

17 Q. What types of things would you do with your
18 stepfather?

19 A. Like, as a family we would go out to museums or
20 the park and we would spend the weekends together.

21 Q. Did you consider him your father?

22 MR. SCHECHTER: Objection.

23 A. Yes.

24 THE COURT: Overruled. I'll allow that.

25 Q. What did you call him?

Awan - People - direct

407

1 A. Dad.

2 Q. Was he somebody that you trusted?

3 A. Yes.

4 Q. Was he somebody that you looked up to?

5 A. Yes.

6 Q. Was he somebody that you relied upon as you were
7 growing up?

8 A. Yes.

9 Q. Can you tell us what your home life was like as
10 far as whether or not it was strict or lenient?

11 A. Strict.

12 Q. What do you mean by that?

13 A. Like for school work they were -- made sure I did
14 all my work and I handed everything in on time.

15 MR. SCHECHTER: Judge, I'm sorry there's
16 noise outside. I cannot hear the witness.

17 MS. JOHNSON: Could we turn up the mike?

18 THE COURT: I don't think it's so much the
19 mike --

20 Ladies and gentlemen, I'm just going to close
21 this window here a little bit.

22 All right, would you just give the last
23 answer back for Mr. Schechter?

24 (Record read.)

25 THE COURT: Okay, Ms. Johnson.

Awan - People - direct

408

1 Q. When you say they, who are you referring to would
2 make sure you had your homework and school work done on
3 time?

4 A. Well, my parents, but mostly my stepfather.

5 Q. What types of chores did you have around the home
6 while you were growing up?

7 A. I helped do the housework, like dishes and clean
8 up.

9 Q. Were you allowed to watch television?

10 A. Sometimes.

11 Q. What types of rules did your parents, and
12 specifically I'm referring to your stepfather Harold Gopaul,
13 what types of rules did they impose while you were growing
14 up?

15 A. Like, I couldn't go out on school nights until I
16 finish all my work and that's it.

17 Q. Were you able to see your friends?

18 A. No.

19 Q. Would you be able to go out on the weekends after
20 your homework was done?

21 A. No.

22 Q. What types of things would you do on the weekends
23 as a family?

24 A. We would go shopping together and sometimes
25 church.

Awan - People - direct

409

1 Q. And would the defendant be with you?

2 A. Yes.

3 Q. And your mom and your brothers and sisters?

4 A. Yes.

5 Q. As you were growing up did you generally get along
6 with your stepfather?

7 A. Yes.

8 Q. Did you get along with your mother?

9 A. Yes.

10 Q. As you were growing up, and particularly in 2008,
11 can you tell us what your stepfather did for a living?

12 A. He's an exterminator.

13 Q. Would he -- withdrawn.

14 What type of vehicle did he drive for work?

15 A. White Ecolab truck.

16 Q. Can you explain or describe for us what that
17 looked like?

18 A. It was like a pickup truck, but the back was
19 covered and it said Ecolab on it.

20 Q. Can you describe what the inside of the vehicle
21 looked like?

22 A. There was a driver's seat, passenger's seat and a
23 small, like, seat in the middle.

24 Q. Any seats in the back?

25 A. No.

Awan - People - direct

410

1 Q. How long did your stepfather have that ve -- that
2 Ecolab van?

3 A. I think since 2005.

4 Q. I want to talk to you a little bit about what your
5 relationship was like with your mom, your biological mother.

6 Was she around while you were growing up?

7 A. Yes.

8 Q. Did you have a good relationship with her?

9 A. Somewhat.

10 Q. And what do you mean by somewhat?

11 A. Like, when I was younger I remember she was
12 usually in the hospital so I spent most of my day with my
13 stepfather.

14 Q. Do you know why she was in the hospital?

15 A. I think she was trying to have another kid, but
16 they never told me and she was like sick.

17 MR. SCHECHTER: I can't hear. Please ask the
18 witness to speak up.

19 THE COURT: Yes, Ms. Awan, please keep your
20 voice -- it kind of trails off in the end.

21 Do you need the answer repeated?

22 MR. SCHECHTER: Yes.

23 THE COURT: If you would?

24 (Record read.)

25 THE COURT: Go ahead, Ms. Johnson.

Awan - People - direct

411

1 Q. Was she around the house or was she in the
2 hospital most of the time?

3 A. In the hospital.

4 Q. Who was primarily the parental figure in your home
5 while your mom was in the hospital?

6 A. My stepfather.

7 Q. As you were growing up did you feel as though you
8 could confide in your mother?

9 A. No.

10 Q. And did you feel as though you could talk to her
11 when you had problems?

12 A. No.

13 Q. Have you spoken to your mom about why you're here
14 today?

15 A. No.

16 Q. How come?

17 A. Because I was too scared.

18 THE COURT: All right, Ms. Awan, do you need
19 a minute or are you okay?

20 THE WITNESS: I'm okay.

21 THE COURT: All right, Ms. Johnson.

22 Q. Did your mom ever ask you what happened?

23 A. No.

24 Q. Did she ever ask if you wanted to go to
25 counseling?

Awan - People - direct

412

1 A. No.

2 Q. Is your mom still married?

3 A. I think so.

4 Q. Did your mom come to court with you today?

5 A. No.

6 MR. SCHECHTER: I'm going to object.

7 May I approach?

8 It's a mischaracterization.

9 THE COURT: The objection is overruled.

10 MR. SCHECHTER: I need to approach, your
11 Honor, to explain my objection.

12 THE COURT: Come on up.

13 (Witness steps down.)

14 (Sidebar conference held as follows:)

15 MR. SCHECHTER: Counsel well knows that the
16 mother is not permitted to be in the presence of
17 Sana Awan and have any contact with her on this level
18 because there's an order of protection and when she
19 asked that question she forced the witness into a
20 mischaracterization.

21 THE COURT: Well, do you now want me to have
22 her ask about the order of protection?

23 MR. SCHECHTER: No, because now that makes it
24 even worse, it exacerbates it, so, I mean, she's doing
25 this -- these questions should not be asked.

Awan - People - direct

413

1 THE COURT: Ms. Johnson, I'm just going to
2 warn you that if there are certain answers you know --
3 answers you know, unless you feel it's particularly
4 relevant to the elements you have to prove, I would be
5 careful where you go with some of it.

6 MS. JOHNSON: Very good.

7 (Sidebar conference concludes.)

8 (Witness resumes the stand.)

9 THE COURT: All right, Ms. Johnson, if you
10 would.

11 Q. Sana, I want to talk to you a little bit about
12 when your relationship with your stepfather changed.

13 Did there come a time when your father-daughter
14 relationship changed to one of a sexual nature?

15 A. Yes.

16 Q. Who started that change?

17 A. My stepfather.

18 Q. I want to direct your attention to a particular
19 date back when you were 14 years old, okay, and I want to
20 direct your attention to an incident in the bathroom in your
21 home, okay?

22 Can you tell us where you were living when you
23 were 14 years old?

24 A. At the Bellerose address.

25 Q. Who was living with you?

Awan - People - direct

414

1 A. My mother and my stepfather and my brother and
2 sister.

3 Q. What grade were you in back then?

4 A. I was in -- freshman in high school, ninth grade.

5 Q. Do you recall if you were taller or shorter than
6 you are today?

7 A. Yes, shorter.

8 Q. And were you heavier or lighter than you are
9 today?

10 A. Lighter.

11 Q. Do know approximately how much you weighed back
12 when you were 14 years old?

13 A. About 90 pounds.

14 Q. Ninety?

15 You have to use words.

16 A. Yes.

17 Q. I want to direct your attention back to when you
18 were 14.

19 Can you tell us, was your body changing?

20 A. Yes.

21 Q. How was your body changing?

22 A. I hadn't hit puberty yet, so it was starting.

23 Q. And when you say it was starting, what does that
24 mean?

25 A. Like my breasts were developing and I started

Awan - People - direct

415

1 getting pubic hair.

2 Q. I want to direct your attention to that particular
3 morning when you were 14 years old.

4 When you woke up did you go to the bathroom?

5 A. Yes.

6 Q. Who was home?

7 A. My mom, my stepfather and my brother and sister.

8 Q. What was your mom doing?

9 A. She was sleeping.

10 Q. What were your brother and sisters (sic) doing?

11 A. Sleeping.

12 Q. Approximately what time did you wake up that
13 morning?

14 A. Around 5:30.

15 Q. How come you got up so early?

16 A. I had to wake up early in the morning so I can get
17 a ride with my stepfather and he usually left like around
18 6:45.

19 Q. How many bathrooms are in your house -- were in
20 your house?

21 A. One.

22 Q. Is that the only place to shower?

23 A. Yeah.

24 Q. Did you take a shower that morning?

25 A. Yes.

Awan - People - direct

416

1 Q. Can you tell us what happened in the bathroom when
2 you came out of the shower?

3 A. I got out of the shower and my stepfather was in
4 the bathroom, too.

5 Q. And I just want to stop you there for just one
6 moment.

7 What was he doing in the bathroom when you came
8 out of the shower?

9 A. He was using the toilet.

10 Q. Were you naked?

11 A. Yes.

12 Q. Tell us what happened?

13 A. So I had my towel around me and he made me take it
14 off.

15 Q. When you say he made you take it off, what did he
16 say to you?

17 A. Like -- he didn't say anything, but he pulled it.

18 Q. When you say he pulled it what was it -- what were
19 his actions?

20 What did he do?

21 A. Like, he moved the towel off of me.

22 Q. Did the entire towel come off?

23 A. Yes.

24 Q. What did he do with the towel?

25 A. He hung it back up.

Awan - People - direct

417

1 Q. What did he say?

2 A. Nothing.

3 Q. What did you say?

4 A. Nothing.

5 Q. What happened next?

6 A. Then there was a hamper in the bathroom and he
7 made me sit on it.

8 Q. When you say he made you sit on it what did he do?

9 A. Like, he told me to go on top of it.

10 Q. What were the words that he used?

11 A. Come here.

12 Q. And what did you say to him?

13 A. I just looked at him.

14 Q. Why?

15 A. Because he told me to do it.

16 Q. Were you naked?

17 A. Yes.

18 Q. What happened next?

19 A. Then he made me open my legs.

20 Q. When you say he made you open your legs what does
21 that mean?

22 A. Like, he put his hands between my legs and held
23 it.

24 Q. When you say he made you open your legs what did
25 he do with his hands?

Awan - People - direct

418

1 A. Put it on my thighs.

2 Q. Were your legs open or were your legs closed?

3 A. Opened.

4 Q. How did your legs come open?

5 A. He pushed them apart.

6 Q. And when you say he pushed them apart did he use
7 one hand or two hands?

8 A. Two hands.

9 Q. Where were his hands on your body when he opened
10 your legs?

11 A. On my thighs.

12 Q. And --

13 MR. SCHECHTER: Excuse me, your Honor, please
14 note my continuing objection to this line of inquiry.

15 THE COURT: Yes, objection is noted.

16 Objection is overruled.

17 Go ahead.

18 Q. Was he pushing on your legs or was he pulling on
19 your legs?

20 A. Pushing.

21 Q. How was he pushing?

22 A. Pushing them apart.

23 Q. Were you trying to close your legs?

24 A. Yes.

25 Q. How were you trying to close your legs?

Awan - People - direct

419

1 A. Putting them back together.

2 Q. Were you able to put them back together?

3 A. No.

4 Q. How come?

5 A. Because he's stronger than me.

6 Q. Did he say anything to you at that time?

7 A. Yes.

8 Q. What did he say?

9 A. Stop fighting.

10 Q. What had you done just before he said to you stop
11 fighting?

12 A. I was pushing his head away.

13 Q. Where was his head?

14 A. Between my legs.

15 Q. When you were pushing his head away how did you do
16 that?

17 A. With my hands.

18 Q. Tell us how?

19 A. Like pushing on his face.

20 Q. With one hand or two hands?

21 A. Two hands.

22 Q. Were you able to push him away?

23 A. No.

24 Q. What was he doing that you weren't able to push
25 him away?

Awan - People - direct

420

1 A. He was -- I don't know how to say it.

2 Q. You have to say it.

3 A. He was performing oral.

4 Q. When you say he was performing oral, what does
5 that mean?

6 A. Like, his lips were on my vagina.

7 Q. What was he saying to you?

8 A. Nothing.

9 Q. While you were pushing on him was he pushing back?

10 A. Yes.

11 Q. How was he pushing back?

12 A. He was pushing his face and his hands on my legs.

13 Q. Were you able to close your legs at that time?

14 A. No.

15 Q. Did you push with one hand or with two hands?

16 A. Two hands.

17 Q. What part of his mouth made contact with your
18 vagina?

19 A. His tongue.

20 Q. What about his lips?

21 A. Yes.

22 Q. Did he touch any other part of your body?

23 A. Yes.

24 Q. What else did he touch?

25 A. My breasts.

Awan - People - direct

421

1 Q. What did he touch your breasts with?

2 A. His hands.

3 Q. Did he say anything to you while he was touching
4 your breast?

5 A. No.

6 Q. What were you doing as he touched your breasts?

7 A. Trying to cover myself up.

8 Q. What does that mean?

9 A. Like pushing his hands away and covering with my
10 hands.

11 Q. When you say you were pushing his hands away how
12 did you try to push his hands away?

13 A. I tried to push his hands off with my hands.

14 Q. Were you able to?

15 A. No.

16 Q. How come?

17 A. Because he's stronger than me.

18 Q. Did he push back?

19 A. Yes.

20 Q. Can you show us how you tried to cover your body?

21 A. Like this (indicating).

22 MS. JOHNSON: Your Honor, let the record
23 reflect the witness's hands are crossed over her
24 breasts.

25 THE COURT: Yes.

Awan - People - direct

422

1 Q. Did you ever tell him no?

2 A. Yes.

3 Q. What did -- what were your words to him?

4 A. I told him to stop.

5 Q. What did he say?

6 A. He said behave.

7 Q. Did he stop?

8 A. No.

9 Q. What did he do after you told him to stop?

10 A. He kept doing it.

11 Q. And when you say he kept doing it, what was he
12 doing in the bathroom?

13 A. Touching me and performing oral.

14 Q. And when you say touching you where was he
15 touching you?

16 A. On my breasts.

17 Q. And when you say performing oral, what does that
18 mean?

19 A. Putting his lips to my vagina.

20 MR. SCHECHTER: I can't hear her, Judge.

21 THE COURT: Wendy?

22 (Record read.)

23 Q. Sana, did you try to scream while you were in the
24 bathroom?

25 A. Yes.

WS

Awan - People - direct

423

1 Q. What did you do?

2 A. I told him to stop and I tried to make noises.

3 Q. When you say you tried to make noises what does
4 that mean?

5 A. Like, I tried to make noise or like make fuss so
6 my mom would hear.

7 Q. Why were you doing that?

8 A. So she would come into the bathroom and he would
9 stop.

10 Q. What did he say to you after you tried to make
11 noises?

12 A. He told me to shush.

13 Q. Were those his words?

14 A. Yes.

15 Q. How were you feeling when you were in the bathroom
16 with your stepfather?

17 A. Scared.

18 MR. SCHECHTER: Objection.

19 THE COURT: Yeah, sustained.

20 Q. Did there come a time in the bathroom when he
21 stopped?

22 A. Yes.

23 Q. What position were you in when he stopped?

24 A. I was still sitting on the hamper.

25 Q. Did you have any clothing on?

Awan - People - direct

424

1 A. No.

2 Q. When did he stop?

3 A. When he was done.

4 Q. I'm sorry?

5 THE COURT: I didn't hear it.

6 Wendy, what was the answer?

7 THE WITNESS: When he was done.

8 Q. Did he say anything to you when he stopped?

9 A. No.

10 Q. Did you hear anybody coming?

11 A. No.

12 Q. I want to now jump forward. I want to talk about
13 May of 2008.

14 THE COURT: All right, before we get there,
15 Ms. Johnson.

16 Members of the jury, this looks about a good
17 time to take our afternoon break before we pick it up
18 again, so just follow Chris as you step out. Watch
19 your step as you step out. We'll have you back here in
20 ten minutes.

21 (Jury exits.)

22 MS. JOHNSON: Your Honor, your Honor had
23 sustained the objection when I had asked the witness
24 how she felt during the encounter in the bathroom.

25 THE COURT: Yes.

Awan - People - direct

425

1 MS. JOHNSON: My purpose for asking her that
2 was because that incident is the predicate for the
3 implied force, force being an element we have to prove
4 beyond a reasonable doubt.

5 Without this witness saying how she felt,
6 without her saying that she was in fear, how am I to
7 carry that fear over into the charges in the indictment
8 that we have to prove?

9 The force is neither -- is not just
10 expressed, but it's implied and it's that incident that
11 we're relying upon to show that fear.

12 THE COURT: Well, I think you asked, in
13 rather excruciating detail, about how she was not
14 physically strong enough to resist the advances and
15 that, you know -- I think that's been developed. You
16 could certainly argue it to the jury.

17 Her state -- I mean, look it, she could be
18 scared and there was never any force exhibited upon
19 her. So I don't think that her saying she's scared is
20 necessarily evidence of such a nature that you need to
21 show in order to establish the element of force.

22 MS. JOHNSON: I think I do because the way
23 the charge reads is what is in the victim's state of
24 mind and what the defendant put in her mind without her
25 saying what was in her mind.

ws

Awan - People - direct

426

1 Certainly I can argue it to the jury, but she
2 needs to be the one to say what was in her mind.

3 THE COURT: I think at this point that the
4 circumstances surrounding this encounter were gone
5 into, as I said, in great detail and eliciting from her
6 that she was scared, I don't think is necessarily
7 relevant or probative to that element, so my ruling
8 stands.

9 (Jury enters.)

10 (Witness resumes the stand.)

11 (Pause in the proceedings.)

12 THE COURT: Okay, all right, Ms. Johnson.

13 MS. JOHNSON: Thank you.

14 Q. Sana, when we left off before the break we were
15 talking about the beginning of May of 2008.

16 Can you tell us who were you living with on
17 May 1st, beginning then, in 2008?

18 A. I was living at home with my stepfather, my
19 brother, my brother and my sister.

20 Q. Was that the same home in Bellerose, Queens?

21 A. Yes.

22 Q. What grade were you in in May of 2008?

23 A. Junior year, 11th grade.

24 Q. High school?

25 A. Yes.

Awan - People - direct

427

1 Q. Can you tell us in May of 2008 did you have a
2 boyfriend?

3 A. Yes.

4 Q. Who was he?

5 You don't have to give us his name, but how did
6 you meet him?

7 A. He was a peer in a math class.

8 Q. You met him in high school?

9 A. Yes.

10 Q. Did you ever tell your parents about your
11 boyfriend?

12 A. Yes.

13 Q. You told your stepfather about your boyfriend?

14 A. Yes.

15 Q. Can you tell us how it came about that you told
16 your stepfather that you had a boyfriend?

17 A. My stepfather used to pick me up after school and
18 a few times he saw us, like, walking out of the building
19 together.

20 Q. What did he say to you when you walked out of the
21 building with your boyfriend?

22 A. He asked me who that was.

23 Q. What did you say?

24 A. And at first I just said it's my friend and then
25 one day I just said it's my boyfriend.

Awan - People - direct

428

1 Q. Did he ask you more than once who that boy was
2 that you were with?

3 A. Yes.

4 Q. What were his words?

5 A. Who is that?

6 Q. And you finally told him?

7 A. Yeah.

8 Q. What was the defendant's reaction to you telling
9 him that you had a boyfriend?

10 A. He was upset.

11 Q. How did he show you that he was upset?

12 A. He started yelling.

13 Q. What did he say?

14 A. Well, I don't know his exact words, but, like,
15 they were telling me that I was too young to date and --

16 Q. Was your stepfather -- did he tell you to stop
17 seeing your boyfriend?

18 A. Yes.

19 Q. At that time that he first asked you if you had a
20 boyfriend, was he picking you up at school?

21 A. Yes.

22 Q. Approximately how many times a week?

23 A. Like twice a week.

24 Q. After you told him that you had a boyfriend did he
25 impose any additional rules in your house?

Awan - People - direct

429

1 A. Yes.

2 Q. What were those rules?

3 A. He dropped me off every morning and picked me up
4 every day and --

5 Q. Were you allowed to continue with your regular
6 school activities?

7 A. Yeah.

8 Q. Were you allowed to go home by yourself after
9 school?

10 A. No.

11 Q. How many times a week did he pick you up after you
12 told him you had a boyfriend?

13 A. Five.

14 Q. Monday through Friday?

15 A. Yes.

16 Q. Is that every school day?

17 A. Yes.

18 Q. Now, let's talk about the first week in May of
19 2008 and I want to talk to you about the school days, the
20 Monday through Friday, okay?

21 How were you getting home -- withdrawn.

22 Who would pick you up from school?

23 A. My stepfather.

24 Q. What time would you be picked up from school?

25 A. Around 4:30.

Awan - People - direct

430

1 Q. What time would school end?

2 A. It was different times every day, but sometimes I
3 had after school, so --

4 Q. What did you have after school?

5 A. Like clubs.

6 Q. What did he pick you up in, what type of vehicle?

7 A. The Ecolab truck.

8 Q. The one you told us about before?

9 A. Yes.

10 Q. What would he wear when he picked you up in that
11 Ecolab van?

12 A. The uniform, the company uniform.

13 Q. What did that uniform look like?

14 A. It was blue -- the pants were navy blue and the
15 shirt was white and it had blue stripes on it.

16 Q. Was there anything on that shirt that said Ecolab?

17 A. Yes.

18 Q. Where?

19 A. I think it was on his left, on his chest.

20 Q. Had you seen that outfit before?

21 A. Yes.

22 Q. Had you been into the van before May 1st of 2008?

23 A. Yes.

24 Q. Where did your stepfather take you that first week
25 in May when he picked you up from school?

WS

Awan - People - direct

431

1 A. To an office building on Community Drive.

2 Q. Why were you going there with him?

3 A. He just took me there.

4 Q. Were you going to work with him?

5 A. Yes.

6 Q. How did it come about that you began to come out
7 to Community Drive after school?

8 A. Cause he had to work after he picked me up, so
9 instead of having to travel home he would pick me up and
10 take me to work with him.

11 Q. Did he ask you to come to work with him?

12 A. No, he told me to come.

13 Q. When did he tell you that you were going to be
14 going to work with him, before May 1st or on May 1st?

15 A. On May 1st.

16 Q. Can you describe for us what that location looked
17 like on Community Drive that you went to that first week in
18 May?

19 A. It was an office building and there are like black
20 windows all the way around.

21 Q. Was that in Nassau County or Queens County?

22 A. Nassau.

23 Q. Where -- did you -- strike.

24 Where did you actually go in the vicinity of that
25 building?

Awan - People - direct

432

1 A. The parking lot.

2 Q. Who drove there?

3 A. My stepfather.

4 Q. Who else was in the van?

5 A. Me.

6 Q. Was there anybody in the parking lot when you got
7 there?

8 A. There were cars, but nobody was walking.

9 Q. Were there any other buildings around?

10 A. No.

11 Q. Focusing on that first week in May 2008, were you
12 bigger or smaller than you are today in height and weight?

13 A. Smaller.

14 Q. How much did you weigh in May of 2008, if you
15 know?

16 A. Around 95.

17 Q. Do you know how tall you were?

18 A. Like five one.

19 Q. Where did the defendant park the van at
20 Community Drive?

21 A. There was a back, like -- all the way at the back
22 of the parking lot.

23 Q. Were there cars around his van?

24 A. I don't remember.

25 MR. SCHECHTER: I didn't hear the answer,

Awan - People - direct

433

1 Judge.

2 THE COURT: Yeah, just close the window.

3 (Record read.)

4 Q. Where were you sitting and where was he sitting
5 when the van was parked?

6 A. He was in the driver's seat and I was in the
7 passenger's seat.

8 Q. Can you tell us that first time when you were
9 brought out to Community Drive in that first week in
10 May 2008, tell us what happened in the van?

11 A. Well, he parked and he told me to come over to the
12 middle part of the -- between the seats.

13 Q. Are those the words that he used?

14 A. He said come here.

15 Q. And what did you do?

16 A. I listened.

17 Q. What happened next?

18 A. Then he told me to kiss him.

19 Q. What were the words that he used?

20 A. He just did it. I don't remember saying anything.

21 MR. SCHECHTER: I can't hear her again,
22 Judge.

23 THE COURT: Yeah, if you could just,
24 Ms. Awan -- if you could just keep your voice, keep
25 your volume up a little bit.

Awan - People - direct

434

1 (Record read.)

2 Q. When you say he just did it, what did he do?

3 A. He put his hands behind my head and pulled my face
4 closer.

5 Q. Closer to what?

6 A. To his face.

7 Q. What happened when he pulled your face closer to
8 his?

9 A. Then he kissed me.

10 Q. Where did he kiss you?

11 A. On the lips.

12 Q. What did you do when he began to kiss you on the
13 lips?

14 A. I tried to pull away.

15 Q. How did you try to pull away?

16 A. Like, I pushed him off of me and --

17 Q. What does that mean?

18 What did you do?

19 A. Like, I pushed on his body and tried to turn my
20 head.

21 Q. When you say you pushed on his body, did you use
22 one hand or two hands?

23 A. Two hands.

24 Q. Where did you push him?

25 A. On his chest.

Awan - People - direct

435

1 Q. Were you able to push him away?

2 A. No.

3 Q. Why not?

4 A. Because he's stronger than me.

5 Q. Did he push back?

6 A. Yes.

7 Q. What did he do?

8 A. He pushed my hands off.

9 Q. And what happened next?

10 A. And he continued and --

11 Q. He continued to do what?

12 A. Kissing me.

13 Q. How was he kissing you?

14 A. With his lips and his tongue.

15 Q. What was his tongue doing?

16 A. It was inside my mouth.

17 Q. Did he put his tongue in your mouth?

18 A. Yes.

19 Q. What did he say to you?

20 A. Nothing.

21 Q. What did you do when he put his tongue in your
22 mouth?

23 A. I tried to close my mouth.

24 Q. When you say you tried to close your mouth, what
25 does that mean?

WS

Awan - People - direct

436

1 A. Like to keep -- to stop him and, like --

2 Q. Did you press your lips together?

3 A. Yeah.

4 Q. Did you say anything?

5 A. No.

6 Q. Did he keep kissing you?

7 A. Yes.

8 Q. What's the next thing that happened?

9 A. Then he started touching my breasts.

10 Q. What was he touching your breasts with?

11 A. His hands.

12 Q. With one hand or two hands?

13 A. Both -- sometimes both, sometimes one.

14 Q. Was he touching you over or under your clothing?

15 A. Both.

16 Q. Was he -- were you wearing a bra?

17 A. Yes.

18 Q. Was he touching you over or under your bra?

19 A. Under.

20 Q. How did he get his hands under your bra?

21 A. He lifted up my shirt.

22 Q. What did he say to you?

23 A. Nothing.

24 Q. What were you doing as he was touching your
25 breasts?

Awan - People - direct

437

1 A. Trying to push him off.

2 Q. How were you doing that?

3 A. Like, hitting his hand and pushing him.

4 Q. What did your stepfather do after you hit his hand
5 and tried to push him?

6 A. He told me to behave.

7 Q. What did he do next?

8 A. Then, when he was done with that, he told me to
9 lay down and put my head on his lap.

10 Q. Did you?

11 A. Yes.

12 Q. How come?

13 A. Because I was scared of him.

14 Q. Why?

15 A. Because I just did what he was told (sic).

16 Q. Where did you put your head?

17 A. On his lap.

18 Q. What did he say?

19 A. Then he told me to put my legs up on the
20 passenger's seat.

21 Q. Did you?

22 A. Yes.

23 Q. Why?

24 A. Because that's what he told me to do.

25 Q. What did he do next?

Awan - People - direct

438

1 A. Then he had a vibrator on his side of the car, so
2 he took it and put it between my legs.

3 Q. When you say he put it between your legs, where
4 did he put it?

5 A. On my vagina.

6 Q. Over your clothes or under your clothes?

7 A. Over.

8 Q. Where did he get the vibrator from?

9 A. It was like on the car door.

10 Q. What did it look like?

11 A. It was white. It was like five inches long or
12 four.

13 Q. Did he say anything to you when he took the
14 vibrator out?

15 A. No.

16 Q. Up until that point had he touched your vagina?

17 A. No.

18 Q. Did there come a point when he did touch your
19 vagina in the van?

20 A. Yes.

21 Q. How did that happen?

22 A. After --

23 Q. And I'm talking about that first week in May 2008?

24 A. He just put his hand there, under my clothes.

25 Q. How did his hand come underneath your clothes?

Awan - People - direct

439

1 A. He just put it there.

2 Q. Did he unbutton your pants?

3 A. Yes.

4 Q. Did he put his hand under your pants?

5 A. Yes.

6 Q. Did he put his hand under your underwear?

7 A. Yes.

8 MR. SCHECHTER: Judge, the leading is -- I
9 understand the witness --

10 THE COURT: Mr. Schechter, please, if you
11 have an objection, this is like the third time I've had
12 to say this to you, just say objection.

13 MR. SCHECHTER: Objection.

14 THE COURT: Sustained.

15 Q. Sana, where did he touch you?

16 A. Under my clothes.

17 Q. Under what clothes?

18 A. Under my underwear.

19 Q. What was he touching you with?

20 A. His hands.

21 Q. Where on your body was he touching you?

22 A. My vagina.

23 Q. And what was he saying?

24 A. He was talking about how wet I was.

25 Q. Were those his words?

WS

Awan - People - direct

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1 A. Yes.

2 Q. How were you feeling?

3 MR. SCHECHTER: Objection.

4 THE COURT: Yeah, sustained.

5 Q. Did you move?

6 A. Yes.

7 Q. How did you move?

8 A. I tried to close my legs and pull his hand out.

9 Q. How did you try to do that?

10 A. Like, I was pulling on his hand and trying to,
11 like, move him.

12 Q. Were you able to move his hand?

13 A. No.

14 Q. Did you say anything to him?

15 A. I told him to stop.

16 Q. Did he stop?

17 A. No.

18 MS. JOHNSON: Your Honor, should I continue?

19 THE COURT: Are you moving on to another
20 area?

21 MS. JOHNSON: Sort of, yeah.

22 THE COURT: All right, members of the jury,
23 rather than kind of interrupt the next subject that the
24 Assistant is going to be go into, this probably looks
25 like as good a time as any to break.

Awan - People - direct

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1 As I told you during jury selection, I try to
2 break as close to 4:30 as possible, get you out of here
3 before the traffic starts exiting at Mineola, the
4 courthouse traffic. At this point we're going to break
5 for today.

6 As I let you go please remember my
7 admonitions. Please don't talk an amongst yourself
8 about anything about the case.

9 Please don't form any opinions, we're still
10 at the beginning of the case.

11 Please don't view or visit or access through
12 the media, Internet, any of the other web sites that I
13 referred to in my preliminary instructions, not only
14 tonight, but throughout the course of the trial.

15 So please get home safe. We'll see you back
16 here tomorrow. Chris will tell you where to report,
17 but we will be back here in my courtroom. See you back
18 here at 9:30, okay?

19 (Jury exits.)

20 THE COURT: All right, Ms. Awan, you can step
21 down. Wait outside.

22 (Witness excused.)

23 THE COURT: Just to expand, if you would,
24 Ms. Johnson, on your earlier -- before we began the
25 last series of questions, when you asked about allowing

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1 to elicit your complainant's state of mind, as far as
2 my reading of the element of forcible compulsion, if
3 you look in the CJI, which I have in front of me, it
4 talks to forcible compulsion means to intentionally
5 compel either by the use of physical force or by
6 threat, expressed or implied, which places a person in
7 fear of immediate death or physical injury to himself
8 or herself.

9 Obviously, in the incident that you were
10 looking to elicit her state of mind, there didn't
11 appear to the Court to be any indicia, if you will, of
12 any threat made by the defendant that would cause the
13 issue of the testimony regarding her, meaning the
14 complainant's, state of mind to be relevant.

15 MS. JOHNSON: And, your Honor, that's --

16 THE COURT: And certainly, let me just add,
17 there also appeared to be a fair amount of evidence of
18 what could be reasonably inferred to be physical force
19 with regard to that incident.

20 MS. JOHNSON: Yes, Judge, and the expanded
21 charge and the definition, which I was relying upon in
22 the CJI for the forcible compulsion, further reads that
23 in determining whether expressed or implied threats
24 amount to forcible compulsion, the jury's concern is
25 not what the defendant would have or could have done,

ws

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1 but, rather, what the victim, observing the defendant's
2 conduct, feared he would or might do if she did not
3 comply.

4 THE COURT: Well, again, there's been -- at
5 least with regard to that incident, I'm only limiting
6 myself to that incident, there wasn't any testimony as
7 to what she feared he may or may not do if she did not
8 comply, so I'm I just wanted to kind of comment a
9 little bit further now that I have the benefit of the
10 instructions in front of me.

11 Does anybody need to take anything else up
12 before we break?

13 MR. SCHECHTER: Not at this time, Judge.

14 THE COURT: People, could you provide
15 tomorrow whatever DVD or electronic device
16 Mr. Schechter may need?

17 And, one final thing, if I could just --
18 Ms. Johnson and Mr. Schechter, I'm giving you a copy of
19 my proposed Molineaux charge, if you will.

20 Mr. Schechter, you'll notice I've excised
21 those words you asked, in Nassau County, out of it, and
22 I marked my copy as Court Exhibit Number 4.

23 MR. SCHECHTER: Thank you, Your Honor. I do
24 notice that.

25 THE COURT: I do intend to charge that at the

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1 conclusion of Ms. Awan's testimony and at my closing
2 instructions.

3 (Shown to counsel.)

4 THE COURT: We'll see everybody back here
5 tomorrow morning.

6 MS. JOHNSON: Thank you.

7 (Proceedings adjourned to Tuesday, May 12th,
8 2009 at 9:30 a.m.)

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445-929

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1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NASSAU : CRIMINAL TERM PART 80

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK, : Indictment

5 : No. 2415N/08

6 -against- :

7 HAROLD GOPAUL, :

8 : Sex Abuse 1

9 Defendant. :

10 : Trial

11 -----X

12 May 12, 2009

13 252 Old Country Road

14 Mineola, New York

15 B E F O R E:

16 HONORABLE JAMES P. McCORMACK,
17 Acting Supreme Court Justice

18 A P P E A R A N C E S:

19 (As previously noted.)

20 * * * * *

21 (Jury enters.)

22 THE COURT: We're about to continue. We've
23 been trying to work on some technical issues with all
24 of these -- all this fancy equipment that we have here.
25 We still haven't resolved it completely.

One thing I'm happy to report is that after
you left here yesterday, my staff and myself kind of
worked on our microphones here. We hopefully have

1 amped up the volume, if you will, and hopefully there
2 won't be any issues with regard to completely hearing
3 the testimony.

4 But, please, if at any point in time,
5 particularly those jurors in the back, you can't hear
6 anybody, just raise your hand and just let me know.
7 Just please let me know. Don't be concerned about
8 interrupting either the lawyers or the witness, okay.
9 It's more important that you hear the testimony than,
10 obviously, not to hear it.

11 And, again, just to touch upon the issue with
12 regard to the notes, I know one of you jurors sent me a
13 note here again this morning.

14 I appreciate your concerns with respect to
15 the note taking, but obviously now, since we began the
16 trial, I would be remiss if I now started to allow some
17 jurors to take notes.

18 But, again, anything that's said during the
19 course of this trial is preserved, there's a record of
20 it and you can certainly request any or all, as much of
21 the testimony you want, read back.

22 So, with that, I think we're ready to
23 proceed, Ms. Johnson?

24 MS. JOHNSON: Should I have Ms. Awan come
25 back in?

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1 THE COURT: Yes.

2 MS. JOHNSON: Yes, she's outside.

3 (The witness, Sana Awan, having previously
4 been sworn, resumed the witness stand.)

5 THE CLERK: You can have a seat.

6 You're reminded, Ms. Awan, that you're still
7 under oath.

8 THE COURT: Ms. Awan, can you just move a
9 little bit close, get that microphone a little bit
10 centered, in the middle, if you would?

11 Again, just speak in a nice, slow, clear,
12 loud voice.

13 Okay, Ms. Johnson.

14 MS. JOHNSON: Thank you.

15 DIRECT EXAMINATION CONT'D

16 BY MS. JOHNSON:

17 Q. Good morning, Sana.

18 How are you today?

19 A. Good.

20 Q. Okay, like the Judge said, make sure you keep your
21 voice loud so everybody can hear you.

22 A. Okay.

23 Q. Can you tell us, in May and June of 2008 was your
24 mom working?

25 A. No.

Awan - People - direct

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1 Q. What did she do for -- what did she do?

2 Was she a housewife?

3 A. Yes.

4 Q. Who was the person that supported your family?

5 A. My stepfather.

6 Q. Was he the only source of income, to your
7 knowledge, for your family in May and June of 2008?

8 A. Yes.

9 Q. I want to step back for just a moment back to the
10 incident that occurred in the bathroom when you were 14
11 years old for just a moment, okay?

12 And you told us yesterday that you were scared.

13 Can you tell us what was it that you were scared
14 of?

15 A. I was scared that, like, if my mom had come in and
16 saw him doing anything, that, like, I would have been the
17 cause of them, you know, breaking up and then it would be
18 like my fault. Like I was scared that I would mess up the
19 family.

20 Q. Were you scared that you would have been --

21 MR. SCHECHTER: Objection.

22 THE COURT: Yeah, sustained as to the
23 leading.

24 Q. Was there anything else that you were afraid of
25 back when you were 14 years old in the bathroom?

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1 MR. SCHECHTER: Objection to the form of the
2 question.

3 THE COURT: No, I'll allow that. Overruled.

4 Q. What else were you scared of?

5 A. I was scared that he would hurt me.

6 Q. And what was it that you were afraid he would do?

7 A. Like, if I fought back I was scared that I would
8 get beat.

9 Q. I want to go back, now, to May of 2008 where we
10 left off yesterday.

11 Did that incident in the bathroom have any impact
12 on your fear in May of 2008?

13 MR. SCHECHTER: Objection.

14 THE COURT: Yeah, sustained as to form.

15 Do you want to rephrase that?

16 MS. JOHNSON: Sure.

17 Q. What impact did that incident in the bathroom have
18 on you, if any, in 2008?

19 MR. SCHECHTER: Objection.

20 THE COURT: No, I'll allow that. Overruled.

21 MR. SCHECHTER: Exception, Judge?

22 THE COURT: Yes.

23 Q. You can answer.

24 A. Can you rephrase it?

25 Q. Sure.

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1 In May of 2008 did you remember what happened in
2 the bathroom?

3 MR. SCHECHTER: Objection.

4 THE COURT: Yeah, overruled.

5 A. Yes.

6 MR. SCHECHTER: Exception, Judge?

7 THE COURT: Yes.

8 Q. And what impact did that memory have on you in
9 May of 2008?

10 A. I knew what he was capable of, so --

11 MR. SCHECHTER: Objection.

12 THE COURT: Yeah, sustained as to the last
13 answer. Answer is stricken.

14 Q. Are you able to answer that question --

15 MR. SCHECHTER: Objection.

16 Q. In a different way --

17 THE COURT: Overruled.

18 Q. Are you able to answer that question in a
19 different way?

20 A. Yes.

21 Q. What's your answer?

22 A. Like, remembering what happened in the bathroom,
23 like I knew there was no point in fighting back, so I just
24 did what he said, otherwise --

25 MS. JOHNSON: Your Honor, I'm going to ask

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1 that this be marked as the People's Exhibit, I believe
2 we're up to, 3 for identification, please.

3 (People's Exhibit 3 marked for
4 identification.)

5 MS. JOHNSON: Can I have that shown to the
6 witness, please?

7 (Shown to witness.)

8 Q. Sana, do you recognize that?

9 A. Yes.

10 Q. What do you recognize that to be?

11 A. The work vehicle.

12 Q. What work vehicle?

13 A. My stepfather's work vehicle.

14 Q. The one you told us about yesterday?

15 A. Yes.

16 Q. Is that a fair and accurate picture of what it
17 looked like in May and June of 2008?

18 A. Yes.

19 MS. JOHNSON: Your Honor, at this time we
20 would offer that into evidence as People's 3.

21 MR. SCHECHTER: Can I see it, please?

22 THE COURT: Show it to Mr. Schechter.

23 (Shown to counsel.)

24 MR. SCHECHTER: No objection.

25 THE COURT: All right, so without objection,

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1 People's 3 will be received in evidence.

2 (People's Exhibit 3 received in evidence.)

3 MS. JOHNSON: Your Honor, I would like to
4 just publish that to the jury.

5 THE COURT: Yes.

6 (People's Exhibit 3 published to the jury.)

7 Q. Sana, can you see the scene?

8 A. Yes.

9 Q. Is that the van that your stepfather picked you up
10 from school in in May and June of 2008?

11 A. Yes.

12 Q. And is that the same van that you drove you out to
13 Nassau County in?

14 A. Yes.

15 Q. And the front of that van, is that the seat that
16 you were referring to that you were sitting in?

17 A. Yes.

18 Q. Okay. Between May 1st and May 13th, 2008, did the
19 defendant drive you out to Nassau County on Community Drive
20 at least one time?

21 A. Yes.

22 Q. And the touching that you told us about yesterday,
23 did that occur at least one time during that time period?

24 A. Yes.

25 Q. Can you describe for us what the vibrators looked

Awan - People - direct

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1 like that he used on you in that time period from May 1st to
2 the 13th of 2008?

3 A. It was like four to five inches long and it was
4 white.

5 Q. What else did it look like?

6 A. It was like cone shaped.

7 MR. SCHECHTER: What is that?

8 THE COURT: Cone shaped.

9 THE WITNESS: Cone shaped, round.

10 Q. Was there more than one vibrator that he used on
11 you in May and June of 2008?

12 A. You mean in the car?

13 Q. Correct.

14 A. No, but there was another one.

15 Q. I'm going to ask that this be marked as People's 4
16 for identification.

17 (People's Exhibit 4 marked for
18 identification.)

19 MS. JOHNSON: I would like it opened.

20 I want the record to reflect that that bag
21 containing the property is sealed.

22 (People's Exhibit 4 was unsealed.)

23 THE COURT: Okay.

24 Yeah, give her a pair of gloves.

25 THE COURT: Are you asking for the item

Awan - People - direct

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1 itself to be marked?

2 MS. JOHNSON: I would, to make sure.

3 (People's Exhibit 4 remarked for
4 identification.)

5 MS. JOHNSON: If I could have it shown to the
6 witness, please?

7 (Shown to witness.)

8 Q. Sana, could you take a look at what's been marked
9 as People's 1 (sic) for identification.

10 Do you recognize that?

11 A. Yes.

12 THE COURT: People's 4.

13 MS. JOHNSON: I'm sorry, People's 4, your
14 Honor.

15 Q. Do you recognize that?

16 A. Yes.

17 Q. What do you recognize that to be?

18 A. It's the massager he had in the car.

19 Q. Is that one of the massagers that he used on your
20 vagina?

21 A. No.

22 Q. What did the massager look like that he used on
23 your vagina?

24 A. It was like this long, but it was just this part,
25 like round.

WS

Awan - People - direct

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1 Q. Have you ever seen that massager before?

2 A. Yes.

3 Q. Where have you seen it in Nassau County?

4 A. In the car.

5 Q. In that work van?

6 A. Yes.

7 Q. Is that in the same or substantially the same

8 condition it was in May and June of 2008?

9 A. Yes.

10 MS. JOHNSON: Your Honor, at this time we
11 would offer that into evidence.

12 MR. SCHECHTER: May I have a voir dire?

13 THE COURT: Yes.

14 VOIR DIRE EXAMINATION

15 BY MR. SCHECHTER:

16 Q. Sana, where did you see that massager in the car?

17 A. It was on the middle part between the seats.

18 Q. Between the seats?

19 And when for the first time did you see that
20 massager?

21 A. The beginning of May.

22 Q. Did you see it before the beginning of May?

23 A. Yes.

24 Q. When before the beginning of May did you see that
25 massager?

WS

Awan - People - direct

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1 A. I'm not sure of an exact date, but it was in the
2 car before.

3 Q. Would it be 2006, 2007, 2008?

4 A. I'm not sure.

5 Q. So it could have been in the car a long time then?

6 A. Yes.

7 Q. And was that the massager that your stepfather
8 used on his neck?

9 A. I don't know.

10 Q. Did you ever see him use that on his neck?

11 A. No.

12 Q. Did you ever hear him complain to you about his
13 neck hurting?

14 A. No.

15 MR. SCHECHTER: May I see that, please?

16 (Shown to counsel.)

17 MR. SCHECHTER: No more questions at this
18 time, Judge.

19 THE COURT: Any objection?

20 MR. SCHECHTER: None.

21 THE COURT: All right, so without objection,
22 People's 4 will be received in evidence.

23 (People's Exhibit 4 received in evidence.)

24 DIRECT EXAMINATION CONT'D

25 BY MS. JOHNSON:

WS

Awan - People - direct

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1 Q. Sana, between May 1st and May 13th, 2008 in
2 Nassau County did your stepfather ever make any threats
3 toward you?

4 A. Yes.

5 Q. Can you tell us what those threats were?

6 A. He threatened to cut off my finger.

7 Q. Where did that happen?

8 A. In the car.

9 Q. Can you tell us the circumstances of how it was
10 that he said that to you?

11 A. I was fighting back when he was kissing me and
12 touching me and he got upset, so he said, "Give me your
13 finger and I'll show you how serious I am."

14 Q. What did he show you?

15 A. The knife that was in the car.

16 Q. Did he say those words to you, "Let me show you
17 how serious I am," while he showed you the knife?

18 A. Yes.

19 Q. Was there a blade on the knife?

20 A. Yes.

21 Q. Did he show you the blade?

22 A. Yes.

23 MS. JOHNSON: Your Honor, I'm going to ask
24 that this be marked as People's 5 for identification.

25 THE COURT: People's 5.

WS

Awan - People - direct

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1 MS. JOHNSON: Your Honor, with the Court
2 officer's permission, obviously with the Court's
3 permission, if I could open that up?

4 THE COURT: Yes.

5 MS. JOHNSON: And let the record reflect that
6 that envelope is sealed.

7 THE COURT: Yes.

8 COURT OFFICER: Take it out?

9 MS. JOHNSON: Please. And, I'm sorry, if we
10 could just actually mark the exhibit?

11 (People's Exhibit 5 unsealed and marked for
12 identification.)

13 THE COURT: Ms. Johnson?

14 MS. JOHNSON: Is the Court going to permit
15 the People to have the tape taken off?

16 I know, that's up to your staff.

17 THE COURT: If I could have it done without
18 my officer getting hurt.

19 (Pause in the proceedings.)

20 MS. JOHNSON: Thank you.

21 If I could just have it shown to the witness?

22 (Shown to witness.)

23 Q. Sana, do you recognize that?

24 A. Yes.

25 Q. What do you recognize that to be?

Awan - People - direct

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1 A. The knife that was in the car.

2 Q. Is that the knife that you were just referring to?

3 A. Yes.

4 Q. Is it in the same or substantially the same
5 condition it was in May and June of 2008?

6 A. Yes.

7 MS. JOHNSON: Your Honor, we would offer that
8 into evidence.

9 MR. SCHECHTER: Voir dire?

10 THE COURT: Yes.

11 VOIR DIRE EXAMINATION

12 BY MR. SCHECHTER:

13 Q. Sana, you've seen that knife before May and June
14 of 2008, haven't you?

15 A. No.

16 Q. Huh?

17 A. No.

18 Q. You never saw that knife in the car before May or
19 June of 2008?

20 A. No.

21 MR. SCHECHTER: No more questions this time,
22 Judge.

23 THE COURT: Any objection?

24 MR. SCHECHTER: No.

25 THE COURT: Without objection, People's 5

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1 will be received in evidence.

2 (People's Exhibit 5 received in evidence.)

3 THE COURT: Okay, Ms. Johnson.

4 DIRECT EXAMINATION CONT'D

5 BY MS. JOHNSON:

6 Q. Sana, how was your stepfather holding the knife
7 when he said those words to you?

8 A. Towards my finger.

9 COURT OFFICER: Do you want her to take it?

10 THE COURT: No.

11 Q. Which part of the knife was facing towards your
12 finger?

13 A. The blade.

14 Q. And how close did the blade come to your finger?

15 A. Like, an inch away.

16 MS. JOHNSON: That's enough with that.

17 Q. Between May 1st and May 13th of 2008 did you ever
18 tell your mom what was going on?

19 A. No.

20 Q. Did you ever tell your best friend Christine?

21 A. No.

22 Q. Can you tell us during that time frame how did
23 your stepfather treat you when your family was around?

24 A. He was nice, like normal.

25 Q. Would you characterize it as a normal

Awan - People - direct

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1 father-daughter relationship?

2 A. Yes.

3 Q. How would he treat you in public during that time
4 frame?

5 A. Normal.

6 Q. Would he ever mention the incidents in the van
7 while other family members were around?

8 A. No.

9 Q. Did he ever mention it in public?

10 A. No.

11 Q. Was it ever spoken about in front of family
12 members during that time period?

13 A. No.

14 Q. Throughout May and throughout June did he continue
15 to treat you, as you said, normal in the presence of other
16 family members?

17 A. Yes.

18 Q. And in public as well?

19 A. Yes.

20 Q. How did you act in public?

21 A. Normal.

22 Q. And would that be around family members as well?

23 A. Yes.

24 Q. Why?

25 A. Because I didn't think -- I didn't let it bother

WS

Awan - People - direct

462

1 me in public.

2 Q. Why not?

3 A. Because I didn't want anyone to know. I was
4 embarrassed.

5 Q. I want to direct your attention to May 14th of
6 2008.

7 Do you remember that day?

8 A. Yes.

9 Q. Can you tell the jury what happened on May 14th,
10 2008 in Nassau County?

11 A. He picked me up from school and then we drove out
12 to the Community Drive building and he made me kiss him and
13 was touching me and then when we were leaving to go home he
14 said --

15 Q. I want to stop you for one second.

16 When you say he was touching you, where was he
17 touching you on that date?

18 A. On my breast and my vagina.

19 Q. And was this after he had threatened you with that
20 knife that's now in evidence?

21 A. Yes.

22 Q. It was after?

23 A. Yes.

24 Q. Tell us what he said to you on May 14th?

25 A. He wanted me to have sex with him so he said to

WS

Awan - People - direct

463

1 pick a date -- well, he said in a week, in two weeks or in a
2 month.

3 Q. Were those the words that he used?

4 A. Yes.

5 Q. Now, when you say he told you he wanted to have
6 sex with you, what was the words that your stepfather used
7 to you?

8 A. I don't know his exact words, but he just said it.

9 Q. What did you say to him?

10 A. Well, he didn't ask, he just said in a week, in
11 two weeks or in a month, so I said a month.

12 Q. Why did you say a month?

13 A. Because I couldn't -- well, actually, I had said
14 no first, but then, like, he gave me the options and I knew
15 I couldn't say no because, I mean, he threatened me before,
16 so I just agreed to a month.

17 Q. Why did you agree to the month?

18 A. Because I was scared if I said no then he would
19 hurt me.

20 Q. Did you tell your mom about what happened on
21 May 14th?

22 A. No.

23 Q. Did you tell your best friend Christine?

24 A. No.

25 Q. Other than touching your breasts and your vagina

Awan - People - direct

464

1 on May 14th, 2008, did he use the vibrator on you?

2 A. Yes.

3 Q. Which vibrator did he use?

4 A. The long one.

5 Q. What did it look like?

6 A. It was like four to five inches long, it was white
7 and like cylinder.

8 Q. After June of 2008 did you see that vibrator
9 again?

10 A. No.

11 Q. Where did he get the vibrator from?

12 A. He had it in a black bag and it was like on his
13 left, like the driver's door.

14 Q. In the van?

15 A. Yes.

16 Q. The same Ecolab van that you indicated was
17 depicted in People's Exhibit 3 in evidence?

18 A. Yes.

19 Q. What did he do with the vibrator on that day?

20 A. He turned it on and put it between my legs.

21 Q. On your vagina?

22 A. Yes.

23 Q. What did you say to him?

24 A. I told him to stop.

25 Q. What did he do?

WS

Awan - People - direct

465

1 A. He continued.

2 Q. Did you physically try to push him away?

3 A. Yes.

4 Q. And how did you do it on that day?

5 A. I tried to push his hands away and close my legs.

6 Q. What happened next?

7 A. He told me to behave.

8 Q. Were you able to close your legs?

9 A. No.

10 Q. How come?

11 A. Because he is bigger than me and stronger.

12 Q. Between May 1st and May 13th and May 14th, 2008,
13 where did your stepfather take you after Nassau County?

14 A. We went home.

15 Q. Did he ever take you to buy -- did he ever go buy
16 anything for you?

17 A. Yeah.

18 Q. Tell us about that.

19 A. One time we went to Taco Bell after because, like,
20 I don't know if I could say this, like --

21 Q. Did he tell you if he was going to take you to
22 Taco Bell?

23 A. No, he asked me if I was hungry.

24 Q. Did he offer to buy you any clothing?

25 A. Yes.

WS

Awan - People - direct

466

1 Q. And what did you say?

2 A. Well, he asked me if I wanted new jeans and I
3 needed it anyway so I said yeah and then he said he would
4 buy me more because, like, I guess he was kind of making up
5 to me.

6 MR. SCHECHTER: Objection.

7 THE COURT: Yeah, sustained as to the last
8 part.

9 Q. And would this offer to buy you clothing and buy
10 you Taco Bell occur after the incidents at Community Drive?

11 A. Yes.

12 Q. Did he offer that to you more than once?

13 A. Yes.

14 Q. I want to move now to May 19th to the 23rd of
15 2008.

16 Can you tell us what happened during that week in
17 Nassau County?

18 A. He continued taking me out to Community Drive
19 after school and one time I went to work with him at this
20 mosaic place.

21 Q. What happened during that week when you were
22 brought out to Community Drive?

23 A. The same thing continued.

24 Q. And when you say the same thing, just tell us
25 again what that is?

WS

Awan - People - direct

467

1 A. He was kissing me and touching me and using the
2 vibrator on me.

3 Q. And was he touching your breasts and your vagina?

4 A. Yes.

5 Q. And during that time period what would you do --
6 withdrawn.

7 During that time period did you ever physically
8 resist your stepfather?

9 A. Yes.

10 Q. And during that time period how did you do that?

11 A. I tried to push him off still and told him to
12 stop.

13 Q. What did he say to you after you told him to stop?

14 A. He told me to behave.

15 Q. Was this before or after when he threatened you
16 with the knife?

17 A. Before.

18 Q. Was May 14th -- excuse me, was May 19th to the
19 23rd, was that before or after he threatened you with the
20 knife in Nassau County?

21 A. Oh, no, I thought you meant the events.

22 No, if you mean the date, yeah, it was during the
23 19th to the 23rd.

24 Q. Did you tell your mom or your best friend what was
25 happening that week?

WS

Awan - People - direct

468

1 A. No.

2 Q. How come?

3 A. Well, I didn't tell my mom because, like, he was
4 our provider and, first, I didn't know if she would believe
5 me and then, if I told her, she would probably confront him
6 and she's not that much stronger than him anyway so, like, I
7 was scared he would probably just hit her and just --
8 nothing would change, it would just continue and I would get
9 in trouble for telling and he would call me a liar and then
10 my little brother and sister --

11 Q. Were you worried about them?

12 A. Yeah.

13 Q. Are you okay?

14 THE COURT: Ms. Johnson --

15 Q. What were you afraid would happen to you if you
16 told your mom or your best friend?

17 A. I was scared I would get in trouble by him and he
18 would beat me.

19 Q. I want to move now to -- do you have water?

20 A. Yeah.

21 Q. -- to May 26th through the 30th of 2008.

22 Can you tell us what happened that week in
23 Nassau County?

24 A. The same thing continued.

25 Q. And did it happen at least one time between

Awan - People - direct

469

1 May 19th through the 23rd?

2 A. Yes.

3 Q. Did it happen at least one time in Nassau County
4 between May 26th and the 30th?

5 A. Yes.

6 Q. And when you say the same thing, just briefly tell
7 us what that was?

8 A. He was kissing me and touching me and using the
9 vibrator on me.

10 Q. And when you say touching you what does that mean?

11 A. Touching my breasts and vagina.

12 Q. Did you tell him no during that time period?

13 A. Yes.

14 Q. What did you say to him and what did he say to
15 you?

16 A. I told him to stop and he told me to behave.

17 Q. I want to move forward to June 2nd to June 6th of
18 2008?

19 MR. SCHECHTER: Which date?

20 THE COURT: Pick a date.

21 MS. JOHNSON: 2nd through the 6th of 2008.

22 THE COURT: Okay.

23 Q. Do you recall that week?

24 A. Yes.

25 Q. What happened on that week in Nassau County?

Awan - People - direct

470

1 A. The same thing continued.

2 Q. And just tell us what that is?

3 A. He was kissing me and touching me and using the
4 vibrator on me. We went to the Community Drive.

5 Q. And was he -- did he pick you up from school
6 during that week?

7 A. Yes.

8 Q. And when you say touching, what does that mean?

9 A. Touching my breasts and vagina.

10 Q. With his hands?

11 A. Yes.

12 Q. And over your clothing or under your clothing?

13 A. Both.

14 Q. And was he touching you over and under your
15 clothing also from -- at least once between May 26th through
16 May 30th of 2008?

17 A. Yes.

18 Q. Now let's go back to the June 2nd to June 6th.
19 Did you tell him no?

20 A. Yes.

21 Q. What did you say to him and what did he say to
22 you?

23 A. I told him to stop and he continued to tell me to
24 behave and then he would threatened me with the knife, too.

25 Q. When you say he would threaten you with the knife

Awan - People - direct

471

1 too, did that threat happen again after May of 2008?

2 A. Yes.

3 Q. Did it happen again in Nassau County?

4 A. Yes.

5 Q. Tell us the circumstances of when that happened --
6 when that threat happened again in Nassau County?

7 A. I was trying to fight him off.

8 Q. What does that mean?

9 A. Like, I was trying to push him away and telling
10 him to stop and, like, I would hit him or something and he
11 would just get mad and then he took out the knife and told
12 me to behave.

13 Q. When you say he would get mad, what was it -- what
14 were his actions that led you to believe he was getting mad?

15 A. Because he raised his voice and I knew he was mad.

16 Q. What were you afraid would happen to you if you
17 didn't comply with what he told you?

18 MR. SCHECHTER: Objection.

19 THE COURT: No, I'll allow that. Overruled.

20 A. What?

21 MR. SCHECHTER: Exception, Judge.

22 Q. What were you afraid would happen to you if you
23 didn't comply with what he told you?

24 A. I thought he would kill me.

25 Q. I want to move forward to June 9th through the

Awan - People - direct

472

1 13th of 2008.

2 Do you remember that week?

3 A. Yes.

4 Q. Can you tell us what happened that week in
5 Nassau County?

6 A. The same thing continued on Community Drive.

7 Q. And you have to tell us what you mean.

8 A. Kissing me and touching me and using the vibrator
9 on me.

10 Q. And when you say touching you, what does that
11 mean?

12 A. Touching my breasts and vagina.

13 Q. Over your clothing or under your clothing?

14 A. Both.

15 Q. And did it happen at least once during that week?

16 A. Yes.

17 Q. Did the defendant pick you up from school to bring
18 you out to Nassau County?

19 A. Yes.

20 Q. And did he continue to pick you up in that Ecolab
21 van?

22 A. Yes.

23 Q. Was this before or after he had threatened you
24 with the knife?

25 A. After.

WS

Awan - People - direct

473

1 Q. Did you tell your mom or your best friend that
2 week?

3 A. No.

4 Q. What were you afraid would happen to you that week
5 if you didn't comply with what he told you to do?

6 A. I thought he would kill me.

7 Q. Was the knife still in the van?

8 A. Yes.

9 Q. Were you able to see it?

10 A. Yes.

11 Q. Was the knife in the van throughout June of 2008?

12 A. Yes.

13 Q. Where was the knife that you were able to see it
14 when you were brought out to Nassau County?

15 A. There was a little pocket under the radio and he
16 had it in there.

17 Q. The second time that he threatened you with a
18 knife what did he say to you that time?

19 A. He said, "I'll show you how serious I am."

20 Q. Did he show you the knife again?

21 A. Yes.

22 Q. And did he point the blade at you?

23 A. Yes.

24 Q. I want to direct your attention to June 14th of
25 2008.

WS

Awan - People - direct

474

1 Can you tell us what happened on that day?

2 A. Well, June 14th was a month from when I had
3 promised to have sex with him, which was May 14th, and I
4 think there was a funeral going on that week so we had just
5 come home after he picked me up so we didn't go out to
6 Community Drive.

7 Q. Who was with you on that day, June 14th?

8 A. All my family.

9 Q. Was your mom around?

10 A. Yes.

11 Q. Your brothers and sisters?

12 A. Yes.

13 Q. On that date did your stepfather remind you of
14 that promise?

15 MR. SCHECHTER: Objection to the leading,
16 your Honor.

17 THE COURT: Yes, sustained.

18 Q. On June 14th, 2008 did your stepfather say
19 anything to you?

20 A. No.

21 Q. What happened after the funeral on that day?

22 A. We all went home.

23 Q. I want to direct your attention -- I'm going to
24 withdraw that.

25 Did there come a time when there was another

Awan - People - direct

475

1 conversation about having sex?

2 A. Yes.

3 Q. When did that happen?

4 A. June 19th.

5 Q. I want to direct your attention from between
6 June 19th and the 20th of 2008.

7 Could you tell us what happened on that day
8 between those two days?

9 A. Well, on the 19th he picked me up from school
10 again -- actually, no, I had regents that week, I think, so
11 I went to work with him again and then he said, "You
12 remember your promise?"

13 Q. Were those the words that he used?

14 A. Yeah.

15 Q. Where were you when he said that to you?

16 A. I was in the car with him.

17 Q. On your way where?

18 A. I think we were going home.

19 Q. And when you say in the car you're referring to
20 that Ecolab van?

21 A. Yes.

22 Q. And what did you say to him after he told you
23 that?

24 A. I said no and then he said, "You remember you
25 promised to have sex with me on the 14th," and --

Awan - People - direct

476

1 Q. What did you say to him?

2 A. I just said yeah.

3 And then he said, "How long has it been?"

4 And I said five days.

5 And then he told me I have to keep my promise so

6 he told me to pick another day and he said, "When do you

7 want to do it? Monday? Tuesday? Wednesday?"

8 And then I said Friday.

9 Q. Why did you say Friday?

10 A. Because it was the farthest away.

11 Q. What were you afraid would happen on that Friday?

12 MR. SCHECHTER: Objection to the leading.

13 THE COURT: Yeah, sustained as to the
14 leading.

15 Q. What was going to happen that Friday?

16 MR. SCHECHTER: Objection.

17 THE COURT: No, I'll allow that. Overruled.

18 Q. What did you expect to happen on that Friday?

19 A. I was supposed to have sex with him.

20 Q. Do you know what date that Friday was?

21 A. The 27th.

22 Q. Of what month?

23 A. June.

24 Q. And what happened on that Friday after he reminded
25 you of the promise?

WS

Awan - People - direct

477

1 A. Nothing. I wasn't there. That's after --

2 Q. Did anything happen on that Friday?

3 A. No.

4 Q. I'm going to direct your attention to the weekend
5 before June 23rd of 2008.

6 Do you remember that weekend?

7 A. Yes.

8 Q. And, could you tell us, did you do anything with
9 your personal belongings on that weekend?

10 A. Yes.

11 Q. What did you do?

12 A. I packed a bag with all my clothes and I put it in
13 my closet and I hid it under, like, stuff on the floor.

14 Q. Why did you do that?

15 A. Because I wanted to run away before Friday.

16 Q. Before Friday of the next week?

17 A. Um-hum, yes.

18 Q. And when you say Friday, is that the day that you
19 were supposed to have sex?

20 A. Yeah.

21 Q. Did you run away that Saturday?

22 A. No.

23 Q. Why not?

24 A. Because that Saturday everyone was home and we
25 went to a fair.

WS

Awan - People - direct

478

1 Q. Did you run away that Sunday?

2 A. No.

3 Q. Why not?

4 A. Because everyone was still home and I didn't even
5 know where I was going, so I didn't leave.

6 Q. Your mom was home?

7 A. Yeah.

8 Q. Was your stepfather home?

9 A. Yes.

10 Q. Was he home on Saturday and Sunday?

11 A. Yes.

12 Q. Were your brothers and sisters home?

13 A. Yes.

14 Q. Did you tell anybody before June 23rd, 2008 that
15 you were planning on running away from home?

16 A. No.

17 Q. Did there come a time throughout June that there
18 was another threat made to you?

19 A. Before June?

20 Q. Throughout June was there another threat?

21 A. Yes.

22 Q. And who made that threat to you?

23 A. My stepfather.

24 Q. When?

25 And you don't have to give us the exact date, you

Awan - People - direct

479

1 can give us the month.

2 A. In June.

3 Q. And where did that threat happen?

4 A. At home.

5 Q. And what did he say to you?

6 A. I mean, I don't remember his exact words, but --

7 Q. What was the substance of it?

8 A. Well, he took a kitchen knife and he told me to me

9 give me my finger (sic) -- give -- yeah.

10 Q. What else did he say to you?

11 A. He said he was going to show me how serious he
12 was.

13 Q. Same as he had said before?

14 A. Yeah.

15 Q. I want to direct your attention to June 23rd 2008.

16 Do you remember what day of the week that was?

17 A. A Monday.

18 Q. What happened on that day?

19 A. My dad went to work at night or -- he wasn't there
20 that night and my mom had a toothache so she went to sleep
21 early, around 8, and my brother and sister were asleep too,
22 and she had the ACs on so the doors were closed.

23 Q. When you say -- air conditioning?

24 A. AC, air conditioning.

25 And I was in my room and I knew that if I didn't

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480

1 leave that night -- wait, I --

2 MR. SCHECHTER: Objection to what she knew.

3 THE COURT: Yeah, sustained as to the last
4 part.

5 You can continue.

6 Q. Why did you pick that night?

7 A. Well, because when I had said the Friday that I
8 would promise to have sex with him he said that day wasn't
9 good and he told me Wednesday and so Monday night I knew
10 that if I didn't leave that night all I had left was Tuesday
11 and if everyone was home on Tuesday I couldn't leave and
12 then Wednesday was the day so I just decided I had to leave
13 that night.

14 So I waited for everyone to go to sleep and I took
15 my stuff and --

16 Q. When you say your stuff, was that the stuff you
17 had packed and left in your closet?

18 A. The bag that I had in my closet.

19 And I had nowhere to go so I called my friend
20 Christine because I thought maybe I could spend the night at
21 her house.

22 Q. You called Christine on the telephone?

23 A. Yeah.

24 Q. You called her on June 23rd?

25 A. Yeah.

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481

1 Q. Did you have a conversation with her?

2 Don't tell us what it was, but did you have a
3 conversation with her?

4 A. Yeah.

5 Q. Did you tell her, without telling us what you
6 said --

7 MR. SCHECHTER: Objection. She's now leading
8 again. I can hear it in her question, "Did you tell
9 her."

10 THE COURT: Well, let me hear the rest of the
11 question.

12 Q. Without telling us what you told her, did you tell
13 her why you were running away?

14 A. Yes.

15 Q. Did you speak to anybody else?

16 A. Yes.

17 Q. Who else did you speak with?

18 A. Her mother.

19 Q. And without telling us what you told Christine's
20 mother, did you tell her why you were running away?

21 A. Yes.

22 Q. Before you called -- withdrawn.

23 Was Christine the first person that you ever told
24 about why you were running away?

25 A. Yes.

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482

1 Q. And was Christine the first person you ever told
2 about what was happening to you?

3 A. Yes.

4 Q. Christine's mom is Denise?

5 A. Yes.

6 Q. Where did you go after you spoke to Denise and
7 Christine on the telephone?

8 A. Denise didn't want me to run away because she, you
9 know, was scared that I would get hurt.

10 MR. SCHECHTER: Objection.

11 THE COURT: Yeah, sustained.

12 Don't tell us what she may have said to you.

13 Q. Just tell us where you went.

14 A. I left the house and I started walking down a back
15 street.

16 Q. Where did you walk towards?

17 A. Towards Christine's house.

18 Q. Where did they end up meeting you?

19 A. They met me, like, three or four blocks away from
20 my house.

21 Q. What did you have with you?

22 A. I had my bag.

23 Q. Where did Denise take you?

24 A. We went to Hollywood Video on Hillside and then we
25 went to the precinct.

WS

Awan - People - direct

483

1 Q. Why did you go to Hollywood Video?

2 A. Because she was calling her -- well, someone in
3 her family. I guess she didn't know what to do because I'm
4 a --

5 MR. SCHECHTER: Objection.

6 THE COURT: Okay, sustained as to the last
7 part.

8 Just tell us what you observed.

9 Q. Did she ask you to get out of the car?

10 A. No. Christine and I went into Hollywood Video
11 while she was on the phone.

12 Q. Where did they take you next?

13 A. And then, when we came back, we went to the
14 precinct.

15 Q. And when you say the precinct, is that
16 105th Precinct in Queens?

17 A. Yes.

18 Q. Who did you meet at the precinct as far as police
19 officers and detectives go?

20 A. Well, first I came in and I met Officer Morris, I
21 think her name was, or Moore, and then I spoke to -- you
22 just want to know the officers?

23 Q. Yes. Did you meet with a detective?

24 A. Yeah, and then I met Detective Shulman. And --

25 Q. Who stayed with you at the precinct?

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1 A. Denise and Christine.

2 Q. Did you have the opportunity to speak to

3 Detective Shulman?

4 A. Yes.

5 Q. Did you tell him what had happened to you?

6 A. Yes.

7 Q. Did you tell him who was doing it to you?

8 A. Yes.

9 Q. Did you tell him about the knife?

10 A. Yes.

11 Q. Did you tell him about the vibrators?

12 A. Yes.

13 Q. Did you tell him about the threats?

14 A. Yes.

15 Q. Did you tell him about the van?

16 A. Yes.

17 Q. Did you tell him about Community Drive?

18 A. Yes.

19 Q. After you were at the precinct on June 23rd, 2008
20 did you go to the hospital?

21 A. Yes.

22 Q. Who took you there?

23 A. They had an ambulance come and pick us up -- well,
24 me and my mom.

25 Q. Your mom came to the precinct?

WS

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485

1 A. Yeah, at like 9 the next morning.

2 Q. Did she stay with you?

3 A. Yeah.

4 Q. Did she stay with you at the hospital?

5 A. Yeah.

6 Q. Did you go back -- where did you go after the
7 hospital?

8 A. I think we had gone back to the precinct.

9 Q. Where was your mom?

10 A. My mom was with me.

11 Q. Did your mom stay with you at the precinct?

12 A. Yeah.

13 Q. Did there come a time when an officer, a female
14 officer, brought you outside the precinct?

15 A. Yes.

16 Q. Where did you go?

17 A. We went outside to the back and the Ecolab truck
18 was there and we looked --

19 Q. What did you see in the Ecolab truck?

20 A. We looked into the window and I saw the knife in
21 the thing under the radio and it was --

22 Q. When you say the knife, you're referring to the
23 knife that's already been marked into evidence?

24 A. Yes.

25 Q. And did you tell Officer Alfaro that you

WS

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1 recognized the knife?

2 A. Yes.

3 MR. SCHECHTER: Objection, it's not been
4 established that Officer Alfaro is the person she spoke
5 to.

6 THE COURT: I'll overrule that.

7 Q. Did you tell the female officer that you
8 recognized the knife?

9 A. Yes.

10 Q. And that's the same knife that we just saw?

11 A. Yes.

12 Q. What did she do?

13 A. They didn't do anything. They just said, "Okay,
14 are you sure," and I said yes.

15 Q. What else did you see in the van?

16 A. And I saw the folded vibrator on the seat, but I
17 didn't see the other one.

18 Q. And when you say the other one, which is the one
19 you're referring to?

20 A. The long white one.

21 Q. And when you say the folded one, are you referring
22 to the one that's already been marked into evidence as
23 People's --

24 A. Yeah.

25 Q. -- 4?

WS

Awan - People - direct

487

1 A. Yes.

2 Q. Where was that in the van?

3 A. It was on the middle seat.

4 Q. When you were brought out to the van was this
5 before or after you spoke to Detective Shulman?

6 A. After.

7 Q. Between May -- between those time periods in May
8 of 2008 and June of 2008 did you ever consent to your
9 stepfather touching your breasts?

10 A. No.

11 Q. Did you ever consent to your stepfather touching
12 your vagina?

13 A. No.

14 Q. Who took you home from the precinct that day?

15 A. Denise.

16 Q. Where was your mom?

17 A. I think she was with us.

18 Q. When you got home who was there?

19 A. I don't think anyone was there when I got home.
20 It was just -- oh, wait, no, Christine was home and my
21 brother and sister.

22 Q. Did there come a time when other members of your
23 family came over that night?

24 A. Yeah.

25 Q. And who came over?

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1 A. Harold's sister.

2 Q. Your stepfather's sister?

3 A. Yeah.

4 Q. Who else?

5 A. Her husband, his other sister, his niece, his
6 other niece, his nephew.

7 Q. Your stepfather's family came over to the home?

8 A. Right.

9 Q. What did your mom say to you at home that day?

10 A. Nothing.

11 Q. Did she ask you what happened?

12 A. No.

13 Q. Where did you go?

14 A. I came in and I said hello to everyone and it was
15 just, like, an awkward silence so I went upstairs and then
16 when I came back down I went into the kitchen and I was
17 talking --

18 Q. I'm just going to stop you there.

19 Who were you talking to?

20 Members of who's family?

21 A. Harold's family.

22 Q. Why did you go up to your bedroom?

23 A. Because when I walked in someone said --

24 MR. SCHECHTER: Objection.

25 THE COURT: Yeah, don't tell us what anybody

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1 said.

2 A. I started crying.

3 Q. Why were you crying?

4 MR. SCHECHTER: Objection.

5 What's the relevance here?

6 THE COURT: No, I'll allow it. Overruled.

7 A. Because when I came in someone said something and
8 I felt like I messed up everyone's life.

9 Q. When you say someone said something was that
10 person a member of your stepfather's family?

11 A. Yeah.

12 Q. Who went upstairs with you?

13 A. Christine.

14 Q. Where was your mom?

15 A. Downstairs.

16 Q. What was the condition of your bedroom when you
17 left it on June 23rd, 2008 to meet Christine and her mom
18 Denise?

19 A. Everything was where I left it.

20 Q. What was the condition of your bedroom when you
21 came home from the precinct?

22 A. Everything was relevantly (sic) where I left it.

23 Q. Over the next day did there come a time -- over
24 the next couple of days did there come a time after the date
25 when you noticed that something was missing?

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1 A. Yes.

2 Q. What was missing from your bedroom?

3 A. My diary.

4 Q. Did you give it to anybody?

5 A. No.

6 Q. Have you seen it since then?

7 A. No.

8 Q. Was there anything out of place in your bedroom
9 when you came home?

10 A. It seemed like my room was searched because
11 everything was moved.

12 MR. SCHECHTER: Objection, what seemed.

13 THE COURT: No, overruled.

14 A. Everything was moved.

15 Q. When you say --

16 THE COURT:

17 Q. Were your things in different positions than you
18 had left them when you left the home?

19 A. Yes.

20 Q. When did you notice that your diary was missing?

21 A. When I saw everything was out of place, so I was
22 just looking to see what was taken and I remember I had
23 moved it to a certain spot and when I opened it it wasn't
24 there.

25 MS. JOHNSON: Can I have a second?

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1 THE COURT: Yes.

2 (Pause in the proceedings.)

3 MS. JOHNSON: Thank you.

4 Q. Sana, did you go anywhere with your mom that
5 weekend?

6 A. What weekend?

7 Q. After the 23rd, a day or two later, did your mom
8 bring you anywhere?

9 A. Yes.

10 Q. Where did she take you?

11 A. It was to a law office.

12 Q. Did she tell you why you were going?

13 A. No.

14 Q. Was it the District Attorney's Office?

15 A. Yes.

16 Q. It was the District -- my office?

17 A. It was 80-02 in Kew Gardens -- on Queens
18 Boulevard.

19 Q. Who did you meet with?

20 A. I don't remember his name.

21 Q. Was it --

22 (Pause in the proceedings.)

23 Q. Did you go to any other office that your mom
24 brought you to?

25 A. No.

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1 Q. Sana, do you have a boyfriend now?

2 A. Yes.

3 Q. And you don't have to tell us his name.

4 Is that the same boyfriend you had back in May of
5 2008?

6 A. Yes.

7 Q. Sana, are you a virgin?

8 A. Yes.

9 MS. JOHNSON: I have no other questions.

10 THE COURT: All right, members of the jury,
11 we're going to take a -- let's take our morning break
12 at this point, about ten minutes. I'll have you back
13 here as soon as possible. So just watch your step as
14 you step out.

15 (Jury exits.)

16 MR. SCHECHTER: I would like to be heard on
17 the record, but out of the presence of the witness.

18 THE COURT: Ms. Awan, if you could, just step
19 down and have a seat outside.

20 (Witness steps down.)

21 MR. SCHECHTER: Your Honor, I respectfully --
22 I'm a little confused.

23 Why is it that defense counsel are not able,
24 in cases like this, to ask a witness if they're a
25 virgin, but prosecutors are able to ask their witness

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1 the same question, whether they're virgins or not?

2 It seems to me that that door has been opened
3 here.

4 THE COURT: Let me just stop you right there,
5 Mr. Schechter.

6 It seems to me I didn't hear you object to
7 the question.

8 MR. SCHECHTER: I didn't because it's my
9 position she now opened the door to a whole line of
10 inquiry here.

11 THE COURT: Well, we'll hear more about what
12 you think that question allows, but is there any other
13 statement that you want to make?

14 Is there an application you're making?

15 MR. SCHECHTER: I'm asking for a mistrial. I
16 think that the witness was -- was drawn out of the
17 witness that she was at the DA's Office in Queens and I
18 also believe that too much of the Queens material was
19 gone into and I'm renewing my request for a mistrial as
20 well as renewing my objection with respect to all of
21 the matters that allegedly occurred in Queens County
22 which were elicited from this witness.

23 THE COURT: All right, well, again, we've
24 gone over this and I've made my ruling prior to the
25 trial beginning. My ruling remains the same.

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1 Your mistrial application is denied.

2 Insofar as her testimony with regard to going
3 to the Queens County DA's Office, the last I checked,
4 80-02 Queens Boulevard is not the Queens County DA's
5 Office.

6 MR. SCHECHTER: It is. They have offices in
7 12-01 and 80-02.

8 MS. JOHNSON: Judge, the answer that I was
9 expecting, which I obviously was not given, was that
10 she met with a representative from the defense
11 attorney's office.

12 THE COURT: Right, I assumed that, so
13 obviously --

14 MS. JOHNSON: Which is why I stopped my
15 inquiry.

16 THE COURT: It seemed to me as though she
17 seemed to be confused which office as to, really, she
18 was in, for what it's worth.

19 So we'll -- let me just see the both of you
20 real quick up here.

21 (Discussion held at the bench, off the
22 record.)

23 (Recess in the proceedings.)

24 THE COURT: All right, Mr. Schechter, the
25 jury is waiting outside.

1 Before we (sic) come in I've given both of
2 you, and it's been marked as a Court exhibit, a copy of
3 my Molineaux charge which I'm prepared to give the jury
4 at this point since the testimony on direct has been
5 concluded or, if you wish, I can give it at the close
6 of her cross.

7 So what's your pleasure?

8 MR. SCHECHTER: I would ask it be given at
9 the close.

10 THE COURT: At the close of cross?

11 MR. SCHECHTER: Yes, Judge.

12 But before we do that, I need to ask the
13 reporter about something before I resume -- begin my
14 cross, if I may. I just need to ask the reporter to go
15 back to some testimony before I begin my cross.

16 Can I do that?

17 THE COURT: I've got a jury waiting outside
18 in the hallway right now, so if you could just hold off
19 on that we'll take it up after lunch.

20 MS. JOHNSON: And I assume none of the tapes
21 we're getting into because I haven't had a chance to
22 see them.

23 THE COURT: And I've asked Mr. Schechter to
24 hold off on that until after lunch.

25 Mr. Schechter, just so that thing doesn't

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1 come falling over and crashing -- it looks like it
2 obscures the Da's vision as well.

3 Ms. Johnson, are you ready?

4 MS. JOHNSON: Yes, Judge.

5 (Jury enters.)

6 THE COURT: All right, members of the jury,
7 we're ready to resume.

8 Mr. Schechter, if you would?

9 MR. SCHECHTER: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. SCHECHTER:

12 Q. Hello, Sana. Good morning.

13 A. Hi.

14 Q. Now, Sana, from 2005 through 2008 how frequently
15 would your stepfather, Harold Gopaul, drive you to school?

16 A. About three to four times a week.

17 Q. And that would be from 2005 to 2008, correct?

18 A. Each year it was different because I got new
19 schedules, so the times that I had to be there changed.

20 Q. Would your mother come with you?

21 A. No.

22 MR. SCHECHTER: May I have a moment, Judge?

23 THE COURT: Yes.

24 (Pause in the proceedings.)

25 MR. SCHECHTER: I'm sorry, Judge, I need a

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1 moment. I thought I had a sticker here.

2 (Pause in the proceedings.)

3 Q. Did your mother pick you up from school?

4 A. No.

5 Q. In May of 2008 did your mother pick you up from
6 school?

7 A. No.

8 Q. Do you recall testifying at a proceeding before
9 this date in Queens County and do you recall being asked
10 this question --

11 MR. SCHECHTER: Page DE24 or 62 on your
12 minutes.

13 MS. JOHNSON: Page what?

14 Q. "Question: In May of 2008 I want to turn your
15 attention to when you were in school. Did there come a
16 time when your mother came to pick up in May and you
17 were with a boy outside in school?

18 "Answer: Yes."

19 Do you recall being asked that question and giving
20 that answer?

21 A. No.

22 Q. May I approach the witness?

23 THE COURT: Yes.

24 (Shown to witness.)

25 A. My mother?

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1 Q. Now, once again, do you recall being asked that
2 question and giving that answer?

3 A. No.

4 Q. Sorry?

5 A. No.

6 MR. SCHECHTER: Counsel stipulate that those
7 answers and questions were given, properly stated?

8 A. My mother didn't drive.

9 THE COURT: Hold it.

10 I think, Mr. Schechter, you're addressing
11 yourself to Ms. Johnson.

12 MR. SCHECHTER: I'm addressing myself to
13 Ms. Johnson.

14 MS. JOHNSON: What lines?

15 MR. SCHECHTER: 17 through 21.

16 MS. JOHNSON: I'll stipulate that that is the
17 question and the answer that was given on that
18 particular date.

19 MR. SCHECHTER: Thank you.

20 Q. Do you recall being asked this question:

21 "Question: By the way, how often would your
22 mother come and pick you up from school?

23 "Answer: Every time."

24 Do you recall being asked that question and giving
25 that answer?

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1 A. No.

2 MR. SCHECHTER: May I show the witness her
3 testimony, approach the witness, Judge?

4 THE COURT: Just give it to my officer.

5 MR. SCHECHTER: Thank you.

6 (Shown to witness.)

7 THE WITNESS: Can I say something?

8 THE COURT: There's no question. He's just
9 showing you that document and I believe Mr. Schechter
10 will have a question after that.

11 Q. Yes. Do you recall being asked that question and
12 giving that answer?

13 A. No.

14 MR. SCHECHTER: Will counsel stipulate that
15 that question was asked and that answer was given?

16 MS. JOHNSON: Okay.

17 THE COURT: Is that a yes?

18 MS. JOHNSON: Yes, Judge.

19 Q. Now, Sana, you're a pretty good student, are you
20 not?

21 A. Yes.

22 Q. Matter of fact, you go to school virtually every
23 day?

24 A. Yes.

25 Q. And I would say that your attendance in school,

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1 except for maybe a few cuts, was pretty regular, wouldn't
2 you agree?

3 A. No, I didn't cut.

4 MR. SCHECHTER: Just one moment, Judge.

5 (Pause in the proceedings.)

6 Q. Well, Sana, going back to 2007, would it refresh
7 your recollection if I said that you cut --

8 MS. JOHNSON: Objection.

9 THE COURT: Yeah, could we hear the question
10 first?

11 MS. JOHNSON: I'm sorry, Judge.

12 Q. That you cut classes September 19th and
13 October 7th, October 7th and October 14th -- I apologize,
14 this is September 5th '08 through December 23rd, '08.

15 September 19th, '08, October 7th, '08,
16 October 14th, '08, October 10th, '08, October 7, '08 and
17 November 17?

18 Would that refresh your recollection?

19 MS. JOHNSON: Objection.

20 THE COURT: No, overruled. I'll allow that.

21 A. No.

22 MR. SCHECHTER: May I approach the witness,
23 your Honor?

24 THE COURT: Yes. Just give whatever document
25 you want to show to my officer.

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1 (Shown to witness.)

2 MR. SCHECHTER: May I ask another question
3 while she has that document?

4 THE COURT: Once I know that she's had an
5 opportunity to look at it.

6 Have you seen it Ms. Awan?

7 THE WITNESS: Um-hum.

8 Q. Now, do you recognize those course numbers, Sana?

9 A. Yes.

10 Q. Now, you'll notice that it says cuts.

11 Did you cut those classes?

12 A. No, I think one of the October dates was one of
13 the days that I had to go to court and, I mean, I don't
14 remember the exact dates, but they're not cuts, they're
15 excused.

16 Q. Okay.

17 MR. SCHECHTER: May I, officer?

18 (Shown to counsel.)

19 Q. So you're pretty much a regular student, right?

20 I mean, a good student?

21 A. Yes.

22 Q. And you regularly attend class?

23 A. Yes.

24 Q. As a matter of fact, both Mr. Gopaul and your
25 mother made sure you attended class?

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1 A. Yes.

2 Q. And they made sure you did your homework, correct?

3 A. Yes.

4 Q. And you've indicated already that you're a very,
5 very good student, is that true?

6 A. Yes.

7 Q. As a matter of fact, your grades for 2008-2009
8 were A minus in English, A for yearbook, whatever that is, A
9 minus in dear/ADV, B plus for teach port; B in leadership, B
10 in government, B plus in senior math, but C plus in phys ed.
11 That's the only thing you really didn't do well.

12 Would that be fair?

13 A. That was first marking period, yes.

14 Q. So you did very well there, right?

15 A. Yes.

16 Q. And for 2008 and 2009 the final grade was A in
17 English, A in yearbook, A minus in dear/ADV, whatever that
18 is, A plus in teach port, A minus in leadership, A plus in
19 government, B plus in psychology, A minus in senior math and
20 B plus in phys ed, you've improved in that, correct?

21 A. Yes.

22 Q. Okay. That was 2008 to 2009.

23 And your attendance was very good then, no?

24 A. Yes.

25 Q. Okay. Now, 2008, Term 1 -- incidentally, when

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1 does the first term in 2008 go to?

2 From when to when?

3 A. First term is September to --

4 Q. January or so?

5 A. January or December.

6 Q. Okay, now, in that time you got A, A -- I'm sorry
7 I should say for what. An A in English, an A in yearbook, A
8 minus in dear ADV, A plus in teach port, A minus in
9 leadership, A plus in government, B plus in psychology, A
10 minus in senior math and B plus in phys ed.

11 Do you remember those grades?

12 A. Isn't that the second marking period of 2008?

13 Q. Term 1.

14 A. Could I see it?

15 Q. Sure.

16 MR. SCHECHTER: Okay, may I?

17 THE COURT: Yes.

18 (Shown to witness.)

19 A. These are the same grades from before. These are
20 just the averages.

21 Q. Why don't you --

22 MR. SCHECHTER: May I have that marked for
23 identification, your, as Defendant's --

24 THE COURT: Defendant's F for ID.

25 MR. SCHECHTER: Thank you, Judge.

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1 (Defendant's Exhibit F marked for
2 identification.)

3 (Shown to witness.)

4 Q. Do you recognize that?

5 Is that document I gave you a transcript of your
6 grades?

7 A. Yes.

8 MR. SCHECHTER: I offer that in evidence as
9 Defendant's F.

10 If counsel wants, I will -- may I approach
11 counsel?

12 (Shown to counsel.)

13 MR. SCHECHTER: Certification.

14 (Shown to counsel.)

15 THE COURT: Any objection, Ms. Johnson?

16 MS. JOHNSON: No.

17 MR. SCHECHTER: Great.

18 THE COURT: Defendant's F will be received in
19 evidence.

20 MR. SCHECHTER: Thank you.

21 MS. JOHNSON: This page alone?

22 MR. SCHECHTER: Let the record reflect I've
23 shown counsel a certification of this part of the
24 records.

25 Q. Sana, please look at that?

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1 COURT REPORTER: I didn't mark it.

2 (Defendant's Exhibit F received in evidence.)

3 (Shown to witness.)

4 Q. Sana, you have that in front of you?

5 A. Yes.

6 Q. Now, would you please read -- I've already read
7 the grades for 2008.

8 Did I read Term 1 or Term 2?

9 On the top.

10 A. You read Term 1.

11 Q. Okay, please read your grades for Term 2?

12 A. That's of 2007.

13 Q. All right.

14 A. You want me to read 2007?

15 Q. Yes.

16 A. A minus in English, a pass in writing workshop, an
17 A in dear, B minus in global, B plus in math, B plus in
18 health, B plus in gym, passing in chemistry lab and A in
19 chemistry.

20 Q. Okay, continue. Please read the rest of your
21 grades to the jury and the year of when you had those
22 grades?

23 A. Term 1 in 2007, A minus in English, A in writing,
24 B plus in dear, B minus in global, A minus in Math B, C plus
25 in health, A minus in gym, passing in chemistry lab, A minus

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1 in chemistry.

2 Q. Keep going.

3 A. Term 1 2006, A minus in English, passing in
4 writing, B minus in Spanish, B plus in dear, A minus in
5 global, B plus in math, B in gym, B minus in earth science.
6 B in theater.

7 Term 2 2005, B in English, B in science fiction, A
8 in dear, A minus in American history, B minus in Math B -- I
9 mean, Math A, C in gym, A plus in living environment.

10 And Term 1 of 2005, B minus in English, A in
11 science fiction, B plus in dear, A minus in American
12 history, A minus in Math A, A minus in gym and A minus in
13 living environment.

14 Q. Is that it?

15 A. You want my regents grades, too.

16 Q. Sure.

17 A. Global history is a 92, gym, I think, is a -- oh,
18 no, I'm not sure what class that is. It says PH, 74.
19 English I got an 84, Math A 78. I think it's living
20 environment 74, US history 85, living environment 85.

21 Q. Thank you.

22 Now, your grades pretty much have gone up since
23 2005, gone between A and B minus, C -- your grades are
24 almost straight A by now, right?

25 A. Yes.

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1 Q. Now, your parents, both your mother and
2 Mr. Gopaul, insisted that school come first, would that be
3 fair to say?

4 A. Yes.

5 Q. As a matter of fact, not only did they insist that
6 school come first, they did not let you go out with your
7 friends, isn't that correct?

8 A. Yes.

9 Q. Matter of fact, you had complained that your life
10 is a boredom, doldrums. You complained that you had no
11 friends because you were forced to go in and study, isn't
12 that right?

13 A. No.

14 Q. That's not right?

15 A. No.

16 Q. The only activities you were able to do would be
17 school clubs and things of that nature, correct?

18 A. Yes.

19 Q. And you indicated that Harold had taken you to
20 school for quite a -- how many years?

21 A. Since 2005.

22 Q. Sorry?

23 A. Since 2005.

24 Q. Well, yeah --

25 A. And even before that.

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1 Q. So he took to you school regularly?

2 A. Um-hum.

3 Q. As a matter of fact, you used to look forward for
4 Harold taking you to school, correct?

5 A. Yes.

6 Q. And picking you up?

7 Did he pick you up as well?

8 A. Sometimes.

9 Q. Didn't he pick you up all the time?

10 A. Sometimes. On days I had late classes because I
11 have to take the bus and after school ended at 6 sometimes,
12 so I got a ride home.

13 Q. You looked forward to him picking you up, did you
14 not?

15 A. Yes.

16 Q. As a matter of fact, you really loved your
17 stepfather, right?

18 A. Yes.

19 Q. Now, there came a time when you wrote poems, isn't
20 that right?

21 A. Yes.

22 Q. Let me ask you if this is your poem. I'm
23 interested only in the first paragraph.

24 MS. JOHNSON: I don't even know what he's
25 talking about, so I don't know what the first paragraph

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1 is.

2 Q. Let me ask you if this is your poem.

3 MR. SCHECHTER: Let me have this marked for
4 identification as Defendant's G?

5 THE COURT: Defendant's G.

6 (Defendant's Exhibit G marked for
7 identification.)

8 (Shown to witness.)

9 Q. You recognize that?

10 A. Yes.

11 Q. Now, I would like you to read the first four lines
12 of that poem?

13 MS. JOHNSON: Objection.

14 THE COURT: Yeah, sustained.

15 Q. What is that you're looking at?

16 A. It's a poem I had to do in English class and it
17 had to reflect who you are, so you have to talk about your
18 hobbies, things you like to do with your family, your
19 favorite foods, just things about you.

20 Q. And when was that written?

21 A. I think it was my sophomore or junior year.

22 Q. Look at the book. It says what date that was.

23 A. There's no date. Yeah, it's the "Where I'm From"
24 poem.

25 THE COURT: You have to speak up.

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1 THE WITNESS: It's my "Where I'm From" poem,
2 so it's my sophomore year.

3 Q. That's your writing?

4 A. Yes.

5 MR. SCHECHTER: I offer that in evidence as
6 Defendant's G.

7 THE COURT: All right, show it to
8 Ms. Johnson.

9 (Shown to counsel.)

10 MS. JOHNSON: Is he offering the entire book
11 or just that page?

12 MR. SCHECHTER: Just that particular poem.

13 MS. JOHNSON: Can I have a voir dire, please?

14 MR. SCHECHTER: Sure.

15 THE COURT: Yes.

16 VOIR DIRE EXAMINATION

17 BY MS. JOHNSON:

18 Q. Sana, what is this book?

19 A. It was just a journal I got for Christmas and when
20 we wrote poems in English -- we had a whole poem unit and we
21 had to write, like, various poems and I just liked them so I
22 copied them into my journal.

23 Q. Where did you keep this book?

24 A. In my room.

25 Q. When is the last time you saw it?

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1 A. When I left my house.

2 Q. Did you give this book to anybody?

3 A. No.

4 Q. Did you give it to the defense attorney?

5 A. No.

6 Q. Do you know how it got to him?

7 A. I would say --

8 Q. If you know?

9 A. No, I don't know.

10 MS. JOHNSON: We would object to this going
11 into evidence, both -- as hearsay.

12 MR. SCHECHTER: It's not hearsay, Judge.

13 THE COURT: Hold on. Let me see both of you
14 real quick.

15 Ms. Awan, if you could just have a seat
16 there?

17 (Witness steps down.)

18 (Sidebar conference held as follows:)

19 MR. SCHECHTER: I'm only concerned with the first
20 four lines, Judge.

21 (Shown to Court.)

22 MR. SCHECHTER: I'm only concerned with the
23 first four lines.

24 MS. JOHNSON: I want to see it, too.

25 (Pause in the proceedings.)

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1 THE COURT: And she's testified as to when
2 this was done?

3 MR. SCHECHTER: Sophomore year, 2006-2007.
4 It's between the time she was alleged to have had this
5 happened to her.

6 THE COURT: The offer with respect to the
7 first four lines is what?

8 MR. SCHECHTER: The fact that she was looking
9 forward to being in her father's van, this is contrary
10 to the fact that she was afraid of having her father in
11 the van with her. She said she's looking forward to
12 sleeping in the back seat.

13 THE COURT: Well, if it's sophomore year
14 isn't it all predating this incident?

15 MS. JOHNSON: Yes, Judge.

16 MR. SCHECHTER: She was allowed to go into
17 2005, what happened before, so am I, as she was
18 allowed.

19 THE COURT: The offer is that it's
20 inconsistent with her not wanting to get into the van.

21 Obviously, it's at this point, none of these
22 allegations have occurred, so it, to me, would seem to
23 be, if you will, a mischaracterization under the
24 context in which you offer it.

25 MR. SCHECHTER: Because if she's been saying

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1 he's doing these things to her from 2005 onward, then
2 she wouldn't want to be in the back of the van
3 sleeping, she wouldn't trust him. She went through all
4 of this horrible stuff and there she is in one of her
5 unguarded moments talking about looking forward to
6 sleeping in the van.

7 MS. JOHNSON: But she's saying this in 2005.

8 MR. SCHECHTER: No, 2006.

9 MS. JOHNSON: It doesn't matter. These
10 allegations are 2008. There's no testimony about her
11 going into a van.

12 If he wants to confront her with it he can,
13 but to admit that in and, in fact, the only purpose
14 your Honor was letting us get into the other
15 information was to show -- was for the narrative and
16 for limited purposes.

17 He's offering this to impeach her with stuff
18 before the dates in the indictment and he hasn't even
19 confronted her with it.

20 THE COURT: It seems to me, and correct me if
21 I'm wrong, but it seems to me the testimony is that it
22 isn't really until 2007 that she starts getting taken
23 out to Nassau County and obviously the indictment
24 speaks of 2008, a year ago. This, to me, seems like
25 that all precedes the getting into the van.

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1 MR. SCHECHTER: But she has testified to,
2 over objection, permitted to testify to, sexual acts
3 that began before 2008 and I am allowed, if she was
4 terrorized to this degree as she was -- as counsel made
5 it seem, that she didn't want to be around her
6 stepfather, that belies what she's saying because that
7 is an indication that she's looking forward to --

8 MS. JOHNSON: In 2005.

9 THE COURT: You know what?

10 I'm going to allow it over the DA's
11 objection.

12 The only issue is how are we going to present
13 this to the jury?

14 MR. SCHECHTER: I'm just going to ask her to
15 read the first four lines.

16 THE COURT: And as far as the timing of this
17 or when it takes place you can explore on redirect
18 examination.

19 MS. JOHNSON: Okay, very good.

20 (Sidebar conference concludes.)

21 THE COURT: All right, Mr. Schechter, just so
22 the record is clear, you're offering from
23 Defendant's G, it's been marked up to now as
24 identification, you are offering the first four
25 lines --

ws

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1 MR. SCHECHTER: First four lines.

2 THE COURT: -- of that particular passage
3 that's contained in that book?

4 MR. SCHECHTER: Yes, your Honor.

5 THE COURT: All right, so that will be
6 granted over objection.

7 THE WITNESS: Can I say something, your
8 Honor?

9 THE COURT: No, wait until the attorney asks
10 questions.

11 (Defendant's Exhibit G received in evidence.)

12 MR. SCHECHTER: May I continue, your Honor?

13 THE COURT: Yes.

14 Q. Sana, would you please read the first four lines
15 in a loud voice?

16 A. I am from the radio where my thoughts vacation to
17 a place without worry. I am working nights with my dad and
18 sleeping on the hard back seat.

19 Q. Thank you.

20 A. Can I say something?

21 THE COURT: No. Just wait until a question
22 is posed or when the Assistant District Attorney
23 questions you.

24 Q. Now, Sana, you've indicated that you, in 2005, you
25 sat -- you were put on a hamper by your father, is that

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1 correct?

2 A. Yes.

3 MR. SCHECHTER: I ask this photograph be
4 marked as Defendant's Exhibit H, please.

5 THE COURT: Defendant's H.

6 (Defendant's Exhibit H marked for
7 identification.)

8 MR. SCHECHTER: Please show that to the
9 witness.

10 (Shown to witness.)

11 Q. Do you recognize that photograph, Sana?

12 A. Yes.

13 Q. What is that a photograph of?

14 A. The bathroom.

15 Q. And does that photograph accurately reflect the
16 bathroom -- how your bathroom looked in 2005?

17 A. No.

18 Q. What's different?

19 A. We hadn't remodeled the bathroom yet and there was
20 a pink hamper where that white one is. We replaced it with
21 the cupboard.

22 Q. When?

23 A. I'm not sure what year.

24 MR. SCHECHTER: Can I have this marked,
25 please?

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1 (Defendant's Exhibit I marked for
2 identification.)

3 Q. Is that the item you classify as a hamper, Sana?

4 A. No.

5 Q. What does the hamper look like?

6 A. It was pink and it was hard plastic and it had
7 like a crossing, like -- like in the front of it had like a
8 pattern and there was holes and just the top was flat and it
9 had a cover like a garbage bin.

10 Q. Thank you.

11 Now, how many times have you been with your
12 stepfather to Community Drive from 2005 to 2008?

13 A. About ten times.

14 Q. And you told Detective Shulman and Detective Moran
15 that you thought it was 300 or 400 Community Drive, is that
16 correct?

17 A. I said I wasn't sure what address, but when we had
18 passed, when I was on my way to the hospital, I saw it and I
19 think it said 300 or 400 so I told him after.

20 Q. Well --

21 MR. SCHECHTER: May I approach the witness?

22 THE COURT: Yeah.

23 You want something marked, Mr. Schechter?

24 MR. SCHECHTER: Yeah, I suppose we could have
25 this marked, deemed marked or have it marked, as

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1 Defendant's J.

2 THE COURT: All right, Defendant's J for ID.

3 (Defendant's Exhibit J marked for
4 identification.)

5 Q. Now, do you see that yellow marked area?

6 A. Yes.

7 Q. Does that refresh your recollection about whether
8 or not you told Detective Moran and Detective Shulman that
9 you believed it occurred at three or 400 Community Drive?

10 A. Yes.

11 MS. JOHNSON: Objection, she didn't ask for
12 her recollection to be refreshed.

13 THE COURT: Yeah, sustained.

14 Q. Do you know whether you told Detective Shulman or
15 Detective Moran whether or not this occurred -- you think it
16 was three or 400 Community Drive?

17 A. Yes.

18 Q. So that's what you told them, right?

19 A. Yes.

20 Q. Each one, correct?

21 A. Yes.

22 MR. SCHECHTER: Thank you.

23 May I have that back, please?

24 (Shown to counsel.)

25 Q. Now, your father has been -- that's a regular

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1 customer of your father, is it not?

2 That's a regular customer of your father, the area
3 in Community Drive, correct?

4 A. I'm not sure.

5 Q. Well, you ascertained later that the -- your
6 father -- your stepfather's customer is at 600 Community
7 Drive, would that be fair to say?

8 A. No.

9 Q. No?

10 A. 600 Community Drive?

11 Q. Yes.

12 A. I never said that.

13 Q. Were you ever shown an aerial photograph of an
14 area?

15 A. Yes.

16 MR. SCHECHTER: Can I have a moment, Judge,
17 please?

18 (Pause in the proceedings.)

19 MR. SCHECHTER: Could I have this marked,
20 please?

21 THE COURT: Defendant's K.

22 (Defendant's Exhibit K marked for
23 identification.)

24 Q. Now, do you recognize that photograph?

25 (Shown to witness.)

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1 A. It doesn't show the full building so I'm not sure
2 if this is it, the same building, but it had windows like
3 that.

4 MR. SCHECHTER: If I may?

5 I would like this marked as Defendant's K.

6 THE COURT: L.

7 (Defendant's Exhibit L marked for
8 identification.)

9 (Shown to witness.)

10 THE COURT: Okay, she has Defendant's L.

11 Q. Is that a better representation of the area?

12 A. Yes.

13 Q. And, if I told you that was 600 Community Drive,
14 would that refresh your recollection?

15 A. I didn't know the address, but I knew it was on
16 Community Drive because that was the street we were driving
17 down.

18 The address is not posted on the building so there
19 was no way for me to know that anyway and from the parking
20 lot there is no writing on the building.

21 MR. SCHECHTER: Can I have this marked,
22 please, as Defendant's L?

23 THE COURT: It's M.

24 MR. SCHECHTER: I'm really behind the times
25 here. L was the second photo.

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1 (Defendant's Exhibit M marked for
2 identification.)

3 (Shown to witness.)

4 Q. See that number?

5 A. Yes.

6 Q. Did you notice that number?

7 A. No.

8 Q. Ten times that you went to that area you never
9 noticed that number?

10 A. What street is it on?

11 What street is that?

12 Q. If I were to tell you it's on Community Drive --

13 MS. JOHNSON: Objection. Objection.

14 Q. -- would that refresh your recollection?

15 THE COURT: I'll allow that.

16 A. I know it was on Community Drive, but I've never
17 seen the number so I wouldn't know and the entrance we would
18 always go through, there was bushes.

19 So if this is an entrance here, this is not the
20 one I entered from.

21 THE COURT: All right, so the point is you
22 don't recognize that photograph or at least what's
23 depicted there, the number?

24 THE WITNESS: Right.

25 Q. When your father would go there would he go in to

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1 sign in at the desk?

2 A. No.

3 Q. He wouldn't do that?

4 A. No.

5 MR. SCHECHTER: If I may, please, one moment?

6 (Pause in the proceedings.)

7 MR. SCHECHTER: Your Honor, I have a
8 certified business record which has been supplied to me
9 from 600 Community Drive.

10 MS. JOHNSON: I'm going to object to a speech
11 in front of the jury, Judge.

12 THE COURT: Yeah.

13 Are you making an offer?

14 MR. SCHECHTER: I'm going to offer this.

15 THE COURT: Yes, so why don't you come up
16 with that?

17 (Witness steps down.)

18 (Sidebar conference held as follows:)

19 (Shown to Court.)

20 THE COURT: Why don't you tell us what it is?

21 MR. SCHECHTER: That's a certified record of
22 a sign-in sheet from Community Drive from the business
23 that's located at 600 Community Drive where my client
24 had the service. It's a certified record. I have the
25 certification right there on the front.

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1 (Pause in the proceedings.)

2 THE COURT: For what time period?

3 MR. SCHECHTER: It's February to the end --
4 to June, before he got arrested, Judge.

5 THE COURT: Okay.

6 MR. SCHECHTER: I just brought the whole
7 thing in, the entire record that I received.

8 THE COURT: It seems to cover dates in May --

9 MR. SCHECHTER: Um-hum.

10 THE COURT: -- and June.

11 There does appear to be different points in
12 time where the defendant signed in at this location.

13 Do you want to take a look at it, People?

14 MS. JOHNSON: I want to know the offer of
15 proof as to this.

16 MR. SCHECHTER: It's obviously got his
17 signing in on some of the dates charged in the
18 indictment.

19 MS. JOHNSON: Is this alibi information or
20 what's the point?

21 MR. SCHECHTER: She just testified that he
22 never signed in during this time and I'm showing that
23 he does sign in, that's the place where he signs in.

24 THE COURT: Is there any indication that she
25 used to go inside into the building with him?

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1 MR. SCHECHTER: No, she didn't.

2 THE COURT: So she wouldn't know.

3 MR. SCHECHTER: She said he never went in to
4 sign in.

5 MS. JOHNSON: But I think we're putting the
6 cart before the horse. He has to ask her did she go in
7 with him and see him sign.

8 I'm going to object to these going in anyway
9 without the proper foundation and --

10 MR. SCHECHTER: It's a business record
11 certification.

12 MS. JOHNSON: Yes, and you need -- my
13 understanding is that you need a witness for that and,
14 number two, he can't --

15 MR. SCHECHTER: I tried to avoid
16 inconveniencing them.

17 MS. JOHNSON: I've never seen them. I would
18 like to at least look through them.

19 So if she was never in the building to see
20 him sign in --

21 MR. SCHECHTER: She just testified he never
22 left the cab of the vehicle to sign in.

23 MS. JOHNSON: That's not what she said.

24 THE COURT: Before we get to the issue of
25 relevancy, do you have any objection?

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1 MS. JOHNSON: I have an objection.

2 THE COURT: To the foundation?

3 MS. JOHNSON: Foundation, improper
4 impeachment and if there's anything in here, because
5 I'm seeing it for the first time, about May through
6 June of 2008.

7 Is there anything in here that you're
8 offering for those dates?

9 MR. SCHECHTER: Um-hum. It's February
10 through June. That's what they sent me.

11 MS. JOHNSON: I'm going to object to them.

12 MR. SCHECHTER: I don't care about February
13 through April.

14 THE COURT: I'm going to sustain the
15 objection. I think the People are at least entitled to
16 ask this person who did provide you with, you know,
17 these in written form that these seemingly meet the
18 business rule exception -- I think they're entitled, if
19 they're going to object, to at least have an
20 opportunity to --

21 MR. SCHECHTER: I'll have to call them, okay.

22 MS. JOHNSON: I'm going to ask for a copy,
23 too, so we don't waste any time.

24 THE COURT: Yes.

25 (Sidebar conference concludes.)

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1 (Witness resumes the stand.)

2 Q. Now, Sana, as I -- as we discussed before, you
3 were a very good student and you're in school virtually
4 every day of the week, is that true?

5 A. Yes.

6 Q. Did you ever tell either your teacher or guidance
7 counselor or dean or anyone else of what was going on?

8 A. No.

9 Q. You had a favorite teacher, did you not?

10 A. No.

11 Q. You didn't have a favorite teacher?

12 A. No.

13 Q. Who was giving you recommendations?

14 A. I had recommendations -- academically I had
15 favorite teachers -- well, not favorite teachers, but they
16 favored me and they'll write recommendations, but I didn't
17 have any teachers I trusted with my personal life. I'm not
18 going to come up one day and start talking about what's
19 happening at home.

20 Q. Well, Sana, you've testified in court to something
21 pretty terrible happening to you over a three-year period.

22 Would that be true?

23 A. Yes.

24 Q. And during that three-year period when this was
25 happening to you you never once, not once, told your mother?

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1 A. No.

2 Q. Told Christine?

3 A. No.

4 Q. Told school?

5 A. No.

6 Q. Told the dean?

7 A. No.

8 Q. As a matter of fact, Mr. Gopaul wasn't with you 24
9 hours, seven days a week, all the time, was he?

10 A. No.

11 Q. And you indicated earlier on your direct
12 examination, I think, that you had a boyfriend?

13 A. Yes.

14 Q. When did this relationship begin?

15 A. Around April.

16 Q. Of 2008?

17 A. Yes.

18 Q. And did your mom meet this boy?

19 A. No.

20 Q. Your mom never met this boy?

21 A. No.

22 MR. SCHECHTER: May I have a moment, Judge?

23 THE COURT: Yes.

24 (Pause in the proceedings.)

25 A. She's never met him. She --

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1 Q. There's not a question.

2 Do you recall earlier I asked you a question, you
3 testified in a previous proceeding --

4 MR. SCHECHTER: Page 062, counsel.

5 Q. "Question: In May of 2008 I want to turn your
6 attention to when you were in school. Did there come a
7 time when your mother came to pick up in May and you
8 were with a boy outside of your school?

9 "Answer: Yes."

10 Do you recall telling that in a previous
11 proceeding?

12 A. No.

13 MR. SCHECHTER: May I show it to the witness,
14 please?

15 THE COURT: Yes.

16 (Shown to witness.)

17 A. My mother was not the one that picked me up.

18 Q. That's not the question, Sana.

19 A. Then what's the question?

20 Q. Did you say that in that proceeding?

21 A. Evidently.

22 Q. Yes or no?

23 A. Yes.

24 MR. SCHECHTER: May I have that back, please?

25 Q. Both your mother and Harold forbade you from

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1 having a boyfriend, isn't that true?

2 A. No.

3 Q. That's not true?

4 A. They never told me that I couldn't have a
5 boyfriend and they never mentioned anything about dating.
6 So they never told me flat out, "You can't date."

7 Q. They never told you that?

8 A. No.

9 Q. Did you ever express that you were afraid to bring
10 a male into the house because they were afraid it would be a
11 boyfriend?

12 Did you ever say those words?

13 A. No.

14 Q. Did you date?

15 A. Yes.

16 Q. With your parents permission?

17 A. No.

18 Q. Why, if they didn't object, did you not date with
19 their permission?

20 A. Can you clarify?

21 Q. Sure. If you didn't have your parent's
22 permission -- but you went on dates anyway, is that correct?

23 A. Well, I didn't go on dates.

24 Q. You didn't go on dates?

25 A. No.

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1 Q. Where did you go?

2 A. We just spent a lot of time together.

3 Q. Would this be at your house?

4 A. No.

5 Q. Did you bring him home?

6 A. No.

7 Q. But your parents never objected to your dating,
8 you're saying?

9 A. They never told me before I said that I had a
10 boyfriend.

11 Q. So after you said you had a boyfriend then they
12 forbade you from dating?

13 A. Well --

14 Q. It's a yes or no, Sana?

15 A. No.

16 Q. Did your mother tell you she did not want to you
17 go out?

18 A. No.

19 Q. Did Mr. Gopaul tell you he didn't want you to go
20 out?

21 A. No.

22 Q. Sana, you saw that knife in that van for a long
23 time before, didn't you?

24 A. No.

25 Q. You were in that van ten times.

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1 You never saw that knife?

2 A. Regarding what dates?

3 Q. Sorry?

4 A. Regarding what dates?

5 Q. Any time prior to when you say Mr. Gopaul
6 threatened to cut your finger off?

7 A. Only as of May 2008.

8 Q. You never saw that before?

9 A. No.

10 Q. And you were in your father's van how long?

11 A. Frequently.

12 Q. Sorry?

13 A. Frequently.

14 MR. SCHECHTER: May I have a moment, Judge?

15 THE COURT: Yes.

16 (Pause in the proceedings.)

17 Q. Now, you say you didn't have a close relationship
18 with your mother?

19 A. No.

20 Q. You take videos of the family?

21 A. Yes.

22 Q. Frequently, is that correct?

23 A. Around --

24 Q. Sorry?

25 THE COURT: She hasn't answered.

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1 A. Somewhat.

2 Q. How often did you take videos?

3 A. It wasn't on a regular basis, but when we went to
4 parties, any special occasions, if me and my sister were
5 playing around we made a video.

6 Q. Now, there are times you went to family functions
7 that involved dancing, is that correct?

8 A. Yes.

9 Q. And you enjoyed dancing. I believe, it may be
10 Indian or Trinidadian dancing?

11 A. Yes.

12 Q. And you did that frequently?

13 A. Yes.

14 Q. And you enjoyed dancing with your stepfather, too,
15 would that be correct?

16 A. In what way?

17 Dancing, it's dancing separately. It's not
18 dancing together like a waltz, it's dancing separately.

19 Q. You enjoyed dancing with your stepfather?

20 A. It wasn't necessarily with him. We can all be on
21 the floor together, but --

22 Q. Did you enjoy dancing with -- did you enjoy
23 watching your stepfather dance?

24 A. No. I mean, it's not an enjoyment, it's not a
25 hobby, you just watch someone dance.

WS

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1 Q. Did you take photos of him dancing?

2 A. Yes.

3 Q. Did you take videos of him dancing?

4 A. Yes.

5 Q. Did you take videos of him in the pool with
6 Darien?

7 A. Oh, yeah.

8 Q. Did you -- and you took videos of him with your
9 mother?

10 A. Yes, family memories.

11 Q. Now, when you went out to the van what, if
12 anything, did you see Police Officer Alfaro do?

13 A. I was standing in front of her so I couldn't see
14 her do anything.

15 I know we walked out together and I believe
16 Detective Shulman was with us and then I looked into the
17 window and I saw the items, I pointed them out, and that was
18 it, we went back into the precinct.

19 MR. SCHECHTER: May I have a moment, Judge?

20 THE COURT: Yes.

21 (Pause in the proceedings.)

22 MR. SCHECHTER: I would like these
23 photographs marked respectively.

24 (Defendant's Exhibits N through Q marked for
25 identification.)

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1 (Shown to witness.)

2 Q. Sana, look at photo N.

3 What is that a picture of?

4 A. My stepfather.

5 Q. And who took that picture?

6 A. I mean, I don't remember. This is like a year
7 ago, so --

8 Q. You don't remember if you took that picture?

9 A. No.

10 Q. Isn't it a fact that you took that picture?

11 MS. JOHNSON: She just said -- objection.

12 MR. SCHECHTER: This is cross-examination,
13 your Honor.

14 THE COURT: Wendy, what was the question
15 again?

16 (Record read.)

17 THE COURT: All right, the objection is
18 overruled.

19 Do you remember taking that picture,
20 Ms. Awan?

21 THE WITNESS: No.

22 Q. You don't remember taking that picture, okay.

23 Look at O.

24 A. Yes.

25 Q. What's that a picture of?

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1 A. My brother and sister were putting hair ties in my
2 stepfather's hair.

3 Q. You remember that picture?

4 A. Yes, I remember it, but I believe my mother took
5 this picture because they were all in the room together.

6 Q. Your mother took that picture.

7 You didn't take that picture?

8 A. I may have.

9 But what relevance does it have if I took a
10 picture?

11 MR. SCHECHTER: Objection, not responsive.

12 THE COURT: Yeah, the last portion is
13 stricken.

14 Go ahead, Mr. Schechter.

15 Q. So you may have taken that picture?

16 A. Maybe.

17 Q. P, look at P?

18 A. Yes.

19 Q. What is that a picture of?

20 A. My brother and sister with their Halloween
21 costumes and a picture with their father in it.

22 Q. Who took that picture?

23 A. I may have taken it.

24 Q. Thank you.

25 Now, Q, what's Q a picture of?

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1 A. My mother wanted us to take pictures --

2 Q. What is this a picture of?

3 A. A picture of me, my brother and sister in Ecolab
4 stuff.

5 Q. And who took that picture?

6 A. My mother.

7 Q. And what is the purpose of that picture?

8 A. It was for his Father's Day because --

9 Q. Father's Day?

10 A. Right.

11 Q. And you gave that to him as a Father's Day card,
12 is that correct?

13 MS. JOHNSON: Objection.

14 A. I --

15 THE COURT: Hold it.

16 A. I didn't --

17 THE COURT: Overruled.

18 Go ahead, you can answer.

19 A. I didn't give it to him. I mean, my mother wanted
20 to give him pictures of us in Ecolab. It was her idea.
21 It's Father's Day, so we took pictures in his uniform.

22 Q. You took pictures in the uniform with the other
23 children?

24 A. Because my mother told me to take them --

25 Q. And --

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1 THE COURT: Mr. Schechter, would you allow
2 her to finish the answer, please?

3 A. Because my mother told me to take them and print
4 them out and make a card out of it.

5 Q. But you didn't want to do it?

6 A. I didn't not want to. He still was my father
7 so -- and my mother told me to do it. I can't just --

8 Q. Were you forced to take that picture?

9 A. No.

10 Q. Were you forced to give that to him as a Father's
11 Day card?

12 A. No.

13 Q. Is that the card that someone gives a father who
14 sexually abuses, Sana?

15 MS. JOHNSON: Objection.

16 THE COURT: Yeah, sustained.

17 All right, Mr. Schechter, I think this is a
18 good time to break for our luncheon break. It looks
19 like it's 12:30, so just mark your spot.

20 All right, members of the jury, we're going
21 to take your lunch break. Fortunately, the weather
22 looks like it's going to cooperate, hopefully, over the
23 next couple of days.

24 So as I let you go, please don't talk amongst
25 yourselves or with anyone else about the case.

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1 Please, please, do not form any opinions
2 about the case at this point and please don't view or
3 visit any of the areas testified to or described at
4 this particular time.

5 Okay, so watch your step as you step out.
6 Have a good lunch. We'll see you back here at
7 2 o'clock.

8 (Jury exits.)

9 THE WITNESS: Excuse me, am I allowed to
10 speak to my lawyer -- to the DA?

11 THE COURT: Not at this point.

12 Just so the record is clear, Mr. Schechter,
13 Ms. Johnson, the witness has asked if she could speak
14 to Ms. Johnson.

15 Obviously, my direction is that she's not to
16 speak to Ms. Johnson about her testimony.

17 MR. SCHECHTER: Not only is Ms. Johnson here,
18 but I believe Ms. Awan's Family Court lawyer is here.
19 I respectfully ask that this matter not be discussed
20 with the Family Court lawyer during the presence of
21 these proceedings.

22 THE COURT: Well, I have no idea whether a
23 Family Court lawyer is here or not.

24 MR. SCHECHTER: I do.

25 THE COURT: Mr. Schechter, if you would allow

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1 me -- I'm directing you, Ms. Awan, not to speak about
2 your testimony concerning this case to anybody, whether
3 it's the DA or anybody else, okay?

4 THE WITNESS: Okay.

5 THE COURT: So you're excused for now. We'll
6 see you back here at 2 o'clock. You can wait outside
7 in the hall for the Assistant.

8 MS. JOHNSON: You can go to lunch. I'll meet
9 you outside. Just watch your step.

10 THE WITNESS: I have a question about, it's
11 not my testimony, it's just like about the evidence.

12 THE COURT: I can't discuss with you about
13 anything that's happening with respect to the trial, so
14 if you would, just step outside and just wait for
15 either Ms. Johnson or whoever else is waiting outside.

16 (Witness steps down.)

17 MS. JOHNSON: Can I make sure somebody is
18 outside?

19 THE COURT: Mr. Schechter, in light of the
20 witness obviously acknowledging that she did dance with
21 her father -- her stepfather and others, I take it that
22 this DVD that you were looking to play, is it still
23 your intention to play it with this witness?

24 MR. SCHECHTER: Yes.

25 THE COURT: And for what reason?

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1 MR. SCHECHTER: The DVD is being used to show
2 that during the times that counsel has, in fact, said
3 that these acts were allegedly occurring, she not only
4 took -- she's dancing with her father, she's also
5 taking pictures.

6 I will explain to the Court which pictures
7 I'm showing; pictures of her brother swimming to her
8 father, concentrating on her father. There are
9 pictures on here of her father and her mother with the
10 father and the mother and she's saying kiss them.

11 THE COURT: All right, just tell them to wait
12 for a second.

13 MR. SCHECHTER: Kiss them, kiss them,
14 pictures encouraging her father to dance.

15 There are pictures of her concentrating on
16 her mother, for her mother to dance.

17 She's testifying, basically, that her mother
18 is Simon Legre, she's testified she has no relationship
19 with her mother, she testified my client is this
20 horrible sexual pervert.

21 All of these pictures that are here are
22 designed to negate this picture that the complaining
23 witness, with the support of the District Attorney, has
24 painted of my client from the time she alleges to --
25 until the time where he is arrested. These are videos

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1 that she took.

2 THE COURT: Well, the fact that she may have
3 taken them -- my question to you is this.

4 She doesn't seem to deny these pictures being
5 taken of her, so I don't know what your offer is, at
6 least through her. It certainly wouldn't sound to me
7 as though it's inconsistent with her testimony that you
8 presented to her as far as being in these videos or
9 perhaps taking the videos. I don't even know whether
10 or not she acknowledged taking the videos.

11 MR. SCHECHTER: Yes, she did. The video
12 cannot be described. The video, like a videotaped
13 confession, must be seen and I believe that this jury
14 is entitled to see during the time that this
15 complainant said she was abused.

16 THE COURT: Well, I'm not questioning --

17 MR. SCHECHTER: May I just finish?

18 THE COURT: I'm not questioning whether or
19 not you're entitled to play it.

20 The question I have is whether or not it's
21 through this witness, that's my point, because it
22 doesn't seem at this point to be any type of
23 inconsistency with what she's testified to.

24 MR. SCHECHTER: I can put these in evidence,
25 your Honor, through this witness. It doesn't mean I

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1 cannot put them in evidence through the witness because
2 this evidence is evidence that basically belies her
3 direct testimony, testimony where she says she had no
4 relationship --

5 THE COURT: Well, let me ask you this.

6 Assuming I allow you to put it in through
7 this witness, do you have -- have you identified
8 certain portions of these videos that you're going to
9 play?

10 In other words, you know which ones you're
11 going to play?

12 MR. SCHECHTER: I do.

13 THE COURT: What I would ask you to do is
14 since Ms. Johnson, I take it, has not seen them up to
15 now --

16 MS. JOHNSON: I have not.

17 MR. SCHECHTER: I have provided her with a
18 copy, but apparently she says she could not properly
19 format it.

20 THE COURT: All right, well, regardless, I
21 think she's entitled to see it before it gets played
22 for the first time in the courtroom, so I'm going to
23 ask you over -- between now and the lunch hour, both of
24 you to please, you know, please get together and show
25 her.

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1 MS. JOHNSON: And, Judge, I obviously have
2 not seen them, but I anticipate my objection is going
3 to be that there is no probative value to them.

4 In fact, the witness testified on direct
5 examination when I asked her what her relationship was
6 like with the defendant in public around her family
7 members -- this is not proper impeachment. She
8 acknowledged on direct and on cross that it was a
9 normal father-daughter relationship and, in fact, when
10 Mr. Schechter asked her did she dance with him and did
11 she make these videos she said yes.

12 So I am not quite clear what his offer of
13 proof is as to how it's relevant for this witness or
14 any witness, for that matter.

15 THE COURT: Well, I obviously haven't seen
16 the video, so it's hard for me to make a ruling in a
17 vacuum.

18 At this point, Mr. Schechter, it doesn't
19 appear as though she's said anything in her testimony
20 that would be inconsistent with what you posed to her
21 in terms of either being in the video, taking the
22 videos --

23 MR. SCHECHTER: Au contraire. She has
24 characterized herself as being victimized by my client.
25 She has characterized herself as being in terror. She

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1 was afraid my client was going to kill her.

2 THE COURT: Well, then --

3 MR. SCHECHTER: You're asking me a question.

4 THE COURT: Don't interrupt me.

5 That begs the question, what time frame are
6 these videos taken?

7 MR. SCHECHTER: These videos are taken
8 between 2005 and 2008.

9 THE COURT: Well, then, is it -- the time
10 that she talks about being, if you will, afraid of the
11 defendant seems to be specifically during the period
12 of -- in 2008.

13 MR. SCHECHTER: No, your Honor, counsel was
14 very specific in her last direct examination, "Did you
15 remember the events of 2005 when you were victimized in
16 2008," and she said yes.

17 So it was counsel's question that drew the
18 parallel that, in fact, she remained in error, that she
19 remembered this threat in 2005 which carried through to
20 2008.

21 THE COURT: I don't remember her testifying,
22 quite frankly, to any threat in 2005.

23 In fact, when the People tried to elicit
24 whether or not she was scared regarding the incident
25 that she described as happening on the hamper in the

WS

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1 house I sustained your objection because there was no
2 indication that there was any threat at that point.

3 MR. SCHECHTER: There was testimony that at
4 the time that 2008 rolled around that this witness, in
5 fact, had remembered the antecedent threats or
6 activities of my client and was frightened.

7 That testimony, the reporter could find it,
8 Judge, it was towards -- it was in the second half of,
9 I think -- second half of 2008.

10 THE COURT: 2008 I don't really differ with
11 you because it's obviously at some point in 2008 that
12 she described being fearful of him and the knife being
13 produced.

14 What I'm looking to try to narrow down, if
15 you will, is if you can identify which of those videos,
16 and the witness can establish as to when those videos
17 or what portions of those videos in terms of the event
18 and the time and that's -- if it happens at or about
19 the time this witness has testified she may have been
20 fearful of your client, then I'll allow you to play it.

21 MR. SCHECHTER: If the Court pleases, with
22 all due respect, I believe that the testimony of the
23 witness after being examined by the District Attorney
24 was that these -- that the threats and the violence and
25 the antecedent memories of 2005 carried through to

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1 2008. She made it a point to raise that testimony,
2 Judge. She made it a point and it came into evidence.

3 If the reporter will read that back I'm sure
4 we'll see that that testimony came in.

5 MS. JOHNSON: But -- and then the questions
6 to her were, "In that time frame when you were in
7 public and with your other members of your family,
8 including your mother, including your brothers and
9 sisters, how did defendant treat you," and she said,
10 she acknowledged, that it was a normal father-daughter
11 relationship.

12 So still, again, with his argument there is
13 no proper impeachment here.

14 MR. SCHECHTER: She took these videos.

15 THE COURT: Look, I'm not going to argue
16 about this throughout the lunch hour. You have an idea
17 what I'm thinking about in terms of my ruling. If it's
18 relevant in time to the events that she talks about in
19 2008, I'm inclined to allow it.

20 If there's anything, Mr. Schechter, you need
21 to go over with my stenographer I suggest you do it
22 before we begin.

23 (The luncheon recess was taken at this time.)

24 * * * * *

25

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AFTERNOON SESSION

1
2 THE COURT: All right, Mr. Schechter, just to
3 clear up what I think may be a misconception on your
4 part with regard to the daily copy, my understanding is
5 and his understanding is that was an accommodation he
6 gave to you for the hearing only and that was because
7 you were going from hearing to trial, which is
8 obviously what we did.

9 It's not his understanding and it's not my
10 understanding, nor was it my ruling, that you were
11 going to get, as retained counsel, daily copy pursuant
12 to County Law 18B.

13 MR. SCHECHTER: I thought that was, in fact,
14 the order. That's why I had made no provisions with
15 the reporter, Judge.

16 THE COURT: Well, it strikes me a little bit
17 odd that you would not -- if you thought that was the
18 case you would have asked her for the minutes yesterday
19 and today. Obviously, she didn't prepare them. She
20 thought that it was only for the purposes of the
21 hearing, which she obviously provided to you.

22 MR. SCHECHTER: I wanted the minutes to Sana
23 Awan. I didn't think the minutes with respect the
24 Aliotos were important.

25 The fact is, yesterday I was busy running

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1 around trying to get these things together.

2 As a matter of fact, today, when I got the
3 discovery material, I noticed that I now have to
4 subpoena Detective Moran and I have -- I'm trying to
5 get my investigator out here to serve a subpoena on the
6 Police Department and it's very difficult to get these
7 mechanics worked out, especially at the last minute.

8 Since I'm being placed in the position where
9 I cannot get daily copy I now have to see if my
10 client's family, some of whose members are in the
11 courtroom, can scrape together the money to pay the
12 reporter.

13 THE COURT: That, obviously, as retained
14 counsel, is entirely your prerogative or your choice.
15 I'm not going to direct my stenographer to provide
16 daily copy. If that's something she wishes to do at
17 your request, that's a business decision that she'll
18 make with you.

19 MR. SCHECHTER: May I have a moment to talk
20 to the family?

21 THE COURT: Yes. But I want to get the jury
22 up here and I want to cover this stuff with this tape
23 as well.

24 MR. SCHECHTER: Yes, Judge.

25 THE COURT: The problem I'm having is this

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1 witness is on the witness stand. You now seem to be
2 suggesting that you want to have these items to finish
3 your cross-examination.

4 I don't know how long your cross is going to
5 be and I'm not certainly trying to curtail you, by any
6 means, but, you know, I don't want to delay this trial
7 and have you come in tomorrow and say, "Well, I don't
8 have the minutes and I'm not prepared to finish the
9 cross-examination."

10 It seems to me that if there was any
11 misunderstanding on your part about whether or not you
12 were entitled to these, as you were during the hearing,
13 you would have raised it last Friday.

14 MR. SCHECHTER: I had no misunderstanding. I
15 thought that I was getting the minutes daily copy.

16 THE COURT: The only one who apparently
17 thought that was you.

18 MR. SCHECHTER: Maybe I didn't -- as far as
19 the order was concerned I did not realize that the
20 order only restricted it to the hearing. It would make
21 no sense because I would need the daily copy for the
22 trial as well.

23 My client -- if I could have a moment, I can
24 ascertain if my client can now get the minutes
25 retained.

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1 Can you?

2 I need a moment, Judge.

3 (Pause in the proceedings.)

4 MR. SCHECHTER: I'm informed that the family
5 is unable -- they don't have any more money to do daily
6 copy, Judge, but then I'm going to have to ask -- I
7 might need to ask the reporter to review certain things
8 that were said that might be in dispute.

9 THE COURT: It's my understanding that she's
10 not allowed to do that unless I direct her to do that
11 for purposes that I may see necessary.

12 So insofar as these -- are they DVDs?

13 MR. SCHECHTER: Yes.

14 THE COURT: And I think, if I understood you
15 correctly when we closed this morning, your offer was
16 to show that these DVDs were either taken by Ms. Awan
17 or depict Ms. Awan --

18 MR. SCHECHTER: Dancing.

19 THE COURT: -- in situations, including
20 dancing, that you feel would be inconsistent with her
21 testimony insofar as her feeling threatened by your
22 client?

23 MR. SCHECHTER: Feeling threatened by my
24 client, being in fear of my client, being endangered by
25 my client, as counsel has referenced throughout her

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1 direct examination.

2 THE COURT: Well, to me, and this is my
3 ruling, is that I will allow you to play portions,
4 provided that there's a foundation laid from the
5 witness or a witness, even if it's not Ms. Awan, that
6 these tapes are, or these instances that are captured
7 on these DVDs are, at the point in time when Ms. Awan
8 has testified to feeling threatened and feeling fearful
9 and feeling her life was in danger and as far as I'm
10 concerned she doesn't really testify to that until May
11 of 2008.

12 MR. SCHECHTER: With all due respect to the
13 Court, your Honor, and I would ask the Court to ask the
14 court reporter to read back those portions of the
15 direct examination of the District Attorney in which
16 the District Attorney drew from the witness that at the
17 time that she was threatened with the knife in May and
18 the time the sexual acts were allegedly committed in
19 May and June of 2008, that she still felt threatened
20 from the earlier times that she had testified to and
21 that was a continuing threat.

22 The whole purpose of her testimony is to show
23 that she was under a continuing feeling of threat from
24 my client. That was her purpose.

25 I asked the Court --

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1 THE COURT: I'm going to reserve on your
2 application for now.

3 However, my ruling is that if there's
4 instances there that are from May and June of 2008 --

5 MR. SCHECHTER: There are not. I tell the
6 Court straight up, the dates of videos are on the
7 videos and the majority of them are from, I believe,
8 from what I saw, November through the early part of
9 2008, November 2007 through the early part of 2008.

10 The way I know that is because when you put
11 the -- first put the mouse on them the date pops out of
12 the video.

13 So this was during the period of time when
14 Sana Awan, according to the District Attorney and the
15 theory of her case and her opening, indicated that she
16 felt threatened continually from 2005 through 2008.
17 That was part of her theory of the case and that was
18 part of the testimony she drew out of Sana Awan and
19 therefore these videos are -- were taken by Sana Awan
20 herself and they were taken of her father, they were
21 taken of her father doing various things. She's
22 dancing, she's laughing, she's having a very easy
23 repartee with her father during these tapes and they
24 certainly belie any feeling of being threatened
25 constantly or continually as the People have indicated.

ws

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1 A person so threatened or so indicated would
2 not have those feelings for the person doing it.

3 THE COURT: Do you want to be heard?

4 MS. JOHNSON: Our objection is exactly what
5 it was before we had broken for lunch as to the fact
6 there is no probative value for this and, in fact, what
7 I was explicitly precluded from arguing was that she
8 was in a constant fear from 2005 through 2008.

9 What I was allowed to argue is that on a
10 particular date in 2005, it was that date that carried
11 over.

12 So contrary to what counsel said, if he's
13 going to want to put these in, then I should be
14 permitted to go into everything in those dates, all
15 those instances your Honor precluded us from bringing
16 out on direct examination, because exactly what your
17 Honor said was I was not to use, in fact, even the word
18 continued because that would open up the door to the
19 Queens incidents.

20 MR. SCHECHTER: She just said so, from 2005
21 to 2008.

22 THE COURT: Listen, I'm not going to hear any
23 more from either one of you. I'm going to reserve my
24 decision with respect to it.

25 None of these here deal with May and June of

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1 2008?

2 MR. SCHECHTER: Not to the best of my
3 recollection when I first saw those.

4 THE COURT: So obviously at this time they're
5 not going to be played as far as the witness is
6 concerned.

7 Wendy, I'm going to take a break at some
8 point.

9 MR. SCHECHTER: So that I --

10 THE COURT: Excuse me, Mr. Schechter.

11 MR. SCHECHTER: I'm sorry.

12 THE COURT: I want you to see if there's any
13 testimony that's -- in which the witness talks about
14 being threatened or feeling threatened at any point
15 from '05 up to May of '08, if there's any testimony in
16 the direct, okay?

17 MR. SCHECHTER: In the event I ask the
18 witness, "Did you feel threatened from 2005 up until
19 the time 2008," and she says yes, would that lay the
20 foundation for this testimony?

21 If I ask it, assuming that the DA hasn't
22 asked it, but I believe she did --

23 THE COURT: I would say yes.

24 I would also caution that if she does say yes
25 you're opening the door to Ms. Johnson eliciting from

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1 her on redirect examination all of those instances,
2 however many there are, of her being threatened. I
3 would think at that point then you've opened the door
4 to it.

5 MR. SCHECHTER: Well, then, I would like, of
6 course, to see if Ms. Johnson had given reference to
7 that in the direct examination first.

8 (Recess in the proceedings.)

9 THE COURT: This is portions of the testimony
10 that were elicited this morning by Ms. Johnson of
11 Ms. Sana Awan:

12 "Question: I want to step back for just a
13 moment, back to the incident that occurred in the
14 bathroom when you were 14 years old for just a
15 moment, okay? And you told us yesterday that you
16 were scared. Can you tell us what it was that you
17 were scared of?

18 "Answer: I was scared that, like, if my mom
19 had come in and saw him do anything that, like, I
20 would have been the cause of them, you know,
21 breaking up and then it would be like my fault.
22 Like I was scared that I would mess up the
23 family."

24 There's an objection as to the leading, which
25 I sustained.

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1 Next question:

2 "Question: Was there anything else that you
3 were afraid of back when you were 14 years old in
4 the bathroom?"

5 Mr. Schechter objected to the form of the
6 question. I allowed it. It was overruled.

7 "Question: What else were you scared of?

8 "Answer: I was scared that he would hurt me.

9 "Question: And what was it that you were
10 afraid of he would do?

11 "Answer: Like, if I fought back I was scared
12 that I would get beat."

13 So in light of that testimony I'm going to
14 allow the videotape to be played --

15 MR. SCHECHTER: DVD.

16 THE COURT: The DVD.

17 Just give me one more moment.

18 (Pause in the proceedings.)

19 THE COURT: All right, I'm going to allow it
20 in this context, Mr. Schechter.

21 In the minutes that I have here I don't know
22 what time period that is. Ms. Johnson may have
23 elicited that during the course of her direct, but
24 that's the only time that she -- and it's a specific
25 incident that she talks about being scared, so to the

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1 extent that you can lay a foundation that some of this
2 material in these videos is in -- at or about or
3 shortly after the time that this incident took place, I
4 would allow it.

5 MR. SCHECHTER: I am proffering to the Court
6 that it's not within the vicinity of the place.

7 I do believe there was other testimony, your,
8 to my recollection, I don't have, of course, the
9 minutes in front of me, but I believe there was other
10 testimony with respect to, and her opening statement to
11 the jury was, that this fear was continuing because she
12 had asked the witness, "He didn't threaten you all the
13 time, no, but you still were under fear with respect to
14 every time he touched your mouth," because not all of
15 the times when he, alleged by counsel -- not all of the
16 times when he supposedly did this to her was the force
17 used, but she hastens back to the memory of the force,
18 the antecedent force, so I do recall that that
19 testimony was made and I do recall that she had segued
20 from 2005 to the present. I don't know.

21 THE COURT: Well, look it, my reporter has
22 been good enough to go back and provide us with these
23 minutes. I've read them. I've read them into the
24 record.

25 It appears to me that the only reference to

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1 her being scared other than when she testified in May
2 and June of 2008, which, again, to the extent that
3 these DVDs cover that period of time, either before,
4 shortly before, May of 2008 or shortly after 2008 when
5 she said she had this fear instilled in her and these
6 DVDs would show her in a position or acted in a manner
7 that would be inconsistent with that, I would allow you
8 to do that.

9 To the extent that there's anything in those
10 DVDs that would be inconsistent with what I've just
11 read here regarding the incident that I believe is the
12 initial incident that the People led off in their
13 direct examination about what took place in the
14 bathroom, again, shortly before, shortly after that
15 context I would.

16 I'm not going to allow, you know, certain
17 snippets over a, you know, four, five even three-year
18 period that, you know, can't be put in context, are not
19 in context with what the witness has testified to.

20 They're just general tapes showing what the
21 complainant, quite frankly, has already testified to,
22 which is that she behaved and acted normally, according
23 to her, notwithstanding the fact that she was having
24 this type of relationship, allegedly, with your client.

25 MR. SCHECHTER: All right, your Honor, I'm

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1 proffering to the Court what it is. Based upon the
2 short time we have to review this here in court time,
3 the short time that I had to look at it before during
4 the break, I will tell the Court that, to the best of
5 my recollection, it reflects a period from November
6 through the mid part of possibly March of 2008. That's
7 what these tapes show, 2007 late through the first
8 quarter of -- the end of 2007 through the first quarter
9 of 2008 and, as I said to the Court, I believe that
10 counsel's opening statement and counsel -- and maybe
11 it's not.

12 (Brief recess in the proceedings.)

13 THE COURT: My reporter just pointed out some
14 other portions of the transcript that she gave me from
15 the witness's testimony earlier today and, again,
16 it's -- it refers to May of 2008, from the context that
17 I see it. I mean, you have my ruling.

18 I think otherwise just to open up, if you
19 will, a whole other area that really, one, is not being
20 considered by the jury in terms of the charges in the
21 indictment itself and, two, in terms of my Molineaux
22 ruling, I tried to fashion a Molineaux ruling that was
23 rather restrictive in terms of what was going to come
24 out, and to the extent, although the jury is not
25 considering your client's guilt or innocence with

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1 respect to some of these instances in Queens, if there
2 was something that was on these videos that was
3 testified to that is inconsistent in terms of her
4 behavior, if you will, I would certainly allow to you
5 do it.

6 But it sounds to me as though these incidents
7 that are on these DVDs which you're looking to play are
8 periods of time that are far removed, if you will, from
9 the incident that the District Attorney led off with
10 and the instances that are contained in this
11 indictment.

12 MR. SCHECHTER: I appreciate the Court -- I'm
13 obviously going to have to abide by the Court's ruling
14 and except to same.

15 I just want to please make the record crystal
16 clear that the videos that I intended to show the jury
17 were videos of Sana taking videos of my client,
18 concentrating on my client to the exclusion of other
19 people in a room, including my client dancing, videos
20 of my client kissing Sana's mother at the encouragement
21 of Sana, Sana laughing and enjoying herself with my
22 client, photos of Sana taking a video of my client in
23 his car on the way up to a trip while my client is
24 singing and Sana is laughing and taking a picture of my
25 client. There's a video of my client in a resort and

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1 Sana is taking a picture of him at the resort and
2 kibitzing with him in a friendly and laughing and
3 jovial way at the resort.

4 It is the position of the defendant, your
5 Honor, that these videos are offered to try to show
6 that contrary to what Ms. Johnson had opened up with to
7 the jury and had at least implied through her questions
8 to Sana, that Sana was operating on a basis of
9 continual fear on the part of the defendant.

10 As such, it is respectfully submitted that
11 aside from the error that I respectfully believe was
12 committed by allowing her to draw out the testimony
13 respecting that May 2005 incident testified to by Sana,
14 she had specifically gone out of her way to communicate
15 to this jury that Sana, from 2005 to 2008 was, in fact,
16 operating under a basis of fear with respect to my
17 client.

18 The fact that she did not -- was not
19 permitted to offer any evidence of the other alleged
20 acts of sexual abuse between 2006 and 2008 is of no
21 moment simply because my client, in his confession,
22 which the Court, over objection, allowed to be played
23 to the jury in its entirety, had, in fact, communicated
24 to the jury, through his confession, that he had sexual
25 contact with Sana from 2006 through 2008.

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1 The period overlapping this --

2 THE COURT: Mr. Schechter, please, is there a
3 point where you're going to --

4 MR. SCHECHTER: Yes, yes.

5 Since the District Attorney was permitted,
6 over objection, to at least put this video in evidence,
7 these videos that I want to play for the Court at least
8 belie the notion that Sana was forced into a sexual,
9 forced into a sexual, relationship; that however impure
10 and however, perhaps, meretricious the relationship
11 was, it was not forced.

12 THE COURT: And I'm not going to get into a
13 tit for tat here, but, in the first place, the record
14 should reflect that what Mr. Schechter has just
15 described is perhaps, and I don't know, because there's
16 no record, if you will, I take his offer as a
17 good-faith offer, but there's certainly no testimony to
18 say what is in these DVDs.

19 It sounds to me as though it's an editorial
20 that you're giving as to what these DVDs or what these
21 pictures are going to show, number one.

22 Number two, in your characterization of them
23 I notice that you failed to say what periods of time
24 these DVDs cover.

25 So, to complete the record, would you tell us

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1 what periods of time that these items that you're
2 looking to show cover?

3 MR. SCHECHTER: As I recall, your Honor, late
4 2007 to the first quarter 2008.

5 THE COURT: Could you give us the month of
6 what that period of time is?

7 MR. SCHECHTER: I would be guessing. If I
8 could see them, actually, on -- because what happens,
9 your Honor, is when you first flash on the specific
10 item in the icon the date comes up and that's how --

11 THE COURT: Well, let me ask you this.

12 In terms of the indictment in this case which
13 talks about May of -- May 1st of 2008, what is the
14 period of time that's on those DVDs that is close to
15 that date?

16 MR. SCHECHTER: None that I can recall.

17 THE COURT: Okay, all right, let's get the
18 jury.

19 (Witness resumes the stand.)

20 (Jury enters.)

21 THE COURT: All right, I owe you an apology.
22 I know I had you kind of locked downstairs.

23 When we broke at 12:30, believe me, we had
24 every intention of picking up promptly at 2, but, as
25 often happens in any trial, not just this one, legal

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1 issues come up.

2 As I said to you during my preliminary
3 discussions, any type of legal discussions are usually
4 done out of the presence of the jury.

5 Sometimes we can resolve things quickly,
6 sometimes we can't. Sometimes we have to take a look
7 back at the record, which is what happened here, and
8 try to get a better handle on what it is that we were
9 trying to hash out and I try to do it -- I don't want
10 to have you up here and then downstairs for 15 minutes
11 and then come back up.

12 So this way we can get it out of the way in
13 one continuous period and hopefully we can just, while
14 we're in the courtroom, use the time as productively as
15 possible.

16 So at this point I think we're ready to
17 continue with the cross.

18 If you would, Mr. Schechter?

19 MR. SCHECHTER: Yes.

20 CROSS-EXAMINATION CONT'D

21 BY MR. SCHECHTER:

22 Q. Sana, do you recall on July 22nd, 2008 having a
23 conversation with a detective from Nassau County?

24 A. Yes.

25 Q. And you remember that detective's name?

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1 Would that be Detective Moran?

2 A. Yes.

3 Q. And do you remember when you first sat down with
4 him on July he took a statement from you?

5 He was writing on a piece of paper while he was
6 talking to you, do you recall?

7 A. Yes.

8 Q. Isn't it a fact that you told Detective Moran that
9 Harold always had a knife in his truck?

10 Didn't you tell him that?

11 A. No.

12 MR. SCHECHTER: May I approach the witness,
13 your Honor?

14 THE COURT: Yes.

15 You want something marked?

16 MR. SCHECHTER: Yes, Judge, Defendant's R for
17 identification.

18 THE COURT: Defendant's R for ID.

19 (Defendant's Exhibit R marked for
20 identification.)

21 (Shown to witness.)

22 Q. Now, look, please, at the first two lines at the
23 detective's notes.

24 Now, does that refresh your recollection as to you
25 telling the detective the defendant always had a knife in

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1 his car?

2 A. I can't read it. He said he --

3 MS. JOHNSON: Judge.

4 THE COURT: If you can't read it, Ms. Awan,
5 just tell the attorney.

6 If you can read it, just read it silently to
7 yourself and if there's any questions, Mr. Schechter
8 will ask you.

9 (Pause in the proceedings.)

10 A. Okay, what was your question?

11 Q. Not only did you tell Detective Moran that Harold
12 always had a knife in his car, you never told
13 Detective Moran you were threatened with that knife, did
14 you?

15 MS. JOHNSON: Objection, it's a
16 mischaracterization of the statement.

17 MR. SCHECHTER: Statement speaks for itself.

18 THE COURT: Well, the only problem,
19 Mr. Schechter, it's not in evidence, so it can't speak
20 for itself.

21 MR. SCHECHTER: That's true.

22 A. He never --

23 THE COURT: Hold on. I'm going to overrule
24 it.

25 You can answer that.

Awan - People - cross

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1 A. Okay, well, he said -- he asked me -- all right,
2 we were talking about May 14th and he never gave me a
3 specific date and I said always meaning as of May because I
4 was already talking about May. I wasn't talking about --

5 Q. Always, since May?

6 A. Well, okay, we were talking about May in the
7 conversation and, yes, I shouldn't have used always.

8 Q. But you used always. That's what you told him,
9 always, right?

10 You didn't say, "Well, since May he had the
11 knife -- I saw the knife in the car," you said always,
12 right?

13 A. Yes.

14 Q. Okay. And in that statement you never told him
15 that you were threatened with a knife, did you?

16 MS. JOHNSON: Objection. It's a
17 mischaracterization of the statement.

18 THE COURT: You have an objection?

19 MS. JOHNSON: Sorry.

20 THE COURT: Yeah, sustained.

21 MS. JOHNSON: Sorry, Judge.

22 THE WITNESS: Do I answer?

23 THE COURT: No.

24 Q. Isn't it a fact you never told him about being
25 threatened with a knife in this interview on July 22nd,

WS

Awan - People - cross

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1 2008?

2 MS. JOHNSON: Objection, objection.

3 THE COURT: Let me just see the both of you
4 with the reporter, please?

5 (Witness steps down.)

6 (Shown to Court.)

7 (Sidebar conference held as follows:)

8 THE COURT: Mr. Schechter, what is it that
9 you're looking for from this witness?

10 MR. SCHECHTER: In this statement she says he
11 always had a knife in his truck, but she never ever
12 tells, there's nothing in that statement -- not only is
13 there nothing in that statement about force being used,
14 when the they originally drew up the complaint they did
15 it as a B misdemeanor, so that's consistent with the
16 fact that she never told them that force was used.

17 MS. JOHNSON: That's totally inconsistent.

18 In fact, her 32B --

19 THE COURT: In the first place, this is his
20 notes, I'm assuming, of his conversation with her.

21 MR. SCHECHTER: Yes, but those are his notes.

22 THE COURT: Well, that's -- that may be a
23 question to ask -- who is this?

24 MR. SCHECHTER: Detective Moran.

25 MS. JOHNSON: Right.

WS

Awan - People - cross

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1 THE COURT: This isn't a written statement of
2 hers.

3 MR. SCHECHTER: This is a work record of her
4 conversation with him.

5 THE COURT: I have no problem with you
6 telling her, "Did you ever tell Detective Moran this,
7 this and this," and whatever her answer is, that's what
8 her answer is.

9 If you want -- depending on whether or not
10 it's something that's not collateral, if you want to
11 call Detective Moran to say that, "When you interviewed
12 her did she say something differently," I have no
13 problem, but to ask her about Detective Moran's
14 notes --

15 MS. JOHNSON: That still is disingenuous
16 because the written statement she gives has all that
17 information in her own words, so it's disingenuous to
18 argue to the jury she never said that when she has it
19 in her statement.

20 MR. SCHECHTER: That's not true because it
21 was originally drawn up as a misdemeanor for a reason.

22 THE COURT: What's drawn up?

23 MR. SCHECHTER: There's a Nassau County
24 departmental form where they determine what the charge
25 is and the first one is 130.55, which is sex abuse as a

ws

Awan - People - cross

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1 B misdemeanor, no force used, so that's obviously
2 something that was drawn up at the beginning of this
3 matter. 130.55 was the original charge.

4 THE COURT: Moran is a Queens detective?

5 MR. SCHECHTER: Nassau.

6 It's not collateral.

7 THE COURT: Look, if there's something in
8 here that's, you know, different than what she's been
9 asked so far, obviously in redirect examination you can
10 explore, but I'm just telling you, that's not a written
11 statement of hers. You can't give this to her and say,
12 "Did you tell Detective Moran?"

13 MR. SCHECHTER: Right, but I can ask her if
14 this refreshes her recollection if she told Detective
15 Moran.

16 THE COURT: That's not a document that she
17 prepared.

18 How is she going to say that's going to
19 refresh her recollection?

20 MR. SCHECHTER: Any document in the whole
21 world, and according to Richardson on evidence, can
22 refresh a witness's recollection.

23 THE COURT: You can ask her whether or not
24 she told Detective Moran this, this and this and
25 depending on what her answer is if you want to show her

Awan - People - cross

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1 that and ask her if that refreshes her recollection,
2 that's one thing.

3 I don't want you to ask, "Didn't you tell
4 Detective Moran this," based upon something that's his
5 notes.

6 MR. SCHECHTER: I respectfully disagree, but
7 I abide by your Honor's rulings. I believe Richardson
8 on evidence proscribes her using written statements.

9 THE COURT: She's not allowed to
10 rehabilitate?

11 MR. SCHECHTER: Not unless I represent this
12 is recent fabrication, which I'm not.

13 The only time you can offer prior consistent
14 statements is if I have alleged a recent fabrication
15 and I have not alleged it.

16 MS. JOHNSON: How is he before this jury
17 arguing this knowing very well in her own words in her
18 own statement --

19 THE COURT: We'll take it step by step.

20 (Sidebar conference concludes.)

21 THE COURT: Ms. Awan, if you would?

22 (Witness resumes the stand.)

23 Q. Isn't it a fact in your original statement to
24 Detective Moran you never mentioned that you were forced?

25 MS. JOHNSON: Objection.

Awan - People - cross

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1 THE COURT: Just read the question back
2 again, please?

3 (Record read.)

4 THE COURT: Yeah, sustained.

5 MR. SCHECHTER: Respectfully except, Judge.

6 THE COURT: Yes.

7 Just so we're clear, Mr. Schechter, that's
8 based upon Defendant's R, am I correct?

9 MR. SCHECHTER: Yes, your Honor.

10 THE COURT: For ID?

11 MR. SCHECHTER: Yes.

12 Q. Isn't it a fact you really weren't scared of
13 Mr. Gopaul, Sana, you were scared only for the welfare of
14 your family; that you thought if your parents -- if your
15 mother found out that you and Mr. Gopaul were intimate that
16 there would be a divorce?

17 Isn't that what your true concern was?

18 MS. JOHNSON: Objection, your Honor, I'm just
19 going to ask if we can clarify the time frame.

20 THE COURT: I'll allow it.

21 You can answer that.

22 A. Wait, can you just repeat it one more time?

23 You said --

24 Q. Hum?

25 A. Can you repeat what you said?

Awan - People - cross

573

1 Q. Yes. Isn't it a fact that you never were
2 threatened by Harold Gopaul and the only reason you did not
3 tell anyone that you and Mr. Gopaul were intimate was
4 because you were afraid it would break up the marriage of
5 your parents and your mother would not be able to
6 financially support the family?

7 A. No.

8 Q. Do you recall testifying in the grand jury,
9 Page 075:

10 "Question: You never directly told anyone?

11 "Answer: No.

12 "Question: How come?

13 "Answer: Because I was scared. Because he was
14 the only one working in the family. I knew if my mom
15 left him they would have financial problems. I have a
16 little brother and sister. I was worried about that.
17 And then I didn't know if he -- if she would believe me
18 and then I'm pretty sure she would have talked to him,
19 they could have gotten me into trouble, so he could
20 just continue doing it."

21 Do you remember using those words?

22 A. Yes.

23 Q. So the concern, your only concern, was that your
24 parents would be getting divorced, is that correct?

25 MS. JOHNSON: Objection.

WS

Awan - People - cross

574

1 THE COURT: No, I'll allow that.

2 You can answer that.

3 A. No, because they didn't ask me what -- if that was
4 my only concern. They said your concerns.

5 Q. The bathroom door the District Attorney alluded to
6 on direct examination, that was always open, wasn't it?

7 A. No.

8 Q. Was it locked?

9 A. No, you said open, not unlocked.

10 Q. Okay, then let me correct that.

11 Was it always unlocked?

12 A. Yes.

13 Q. And there was another bathroom in the basement,
14 no?

15 A. Yes, but we didn't --

16 Q. That's yes or no.

17 And sometimes there would be more than one person
18 in the bathroom doing different things because that was the
19 most handy bathroom for everybody to use, isn't that
20 correct?

21 A. Yes.

22 MR. SCHECHTER: I have no more questions of
23 the witness at this time, Judge.

24 THE COURT: All right.

25 Ms. Johnson, any redirect?

Awan - People - redirect

575

1 MS. JOHNSON: Just quickly.

2 REDIRECT EXAMINATION

3 BY MS. JOHNSON:

4 Q. Sana, did you have the opportunity to speak to
5 Detective Moran from the Nassau County special victim's
6 squad?

7 A. Yes.

8 Q. And did you tell him everything that you told
9 Detective Shulman?

10 A. No.

11 Q. Did you tell him more information than what you
12 told Detective Shulman?

13 A. No.

14 Q. Did you tell him what happened in May and June of
15 2008 in Nassau County?

16 Did you tell Detective Moran what happened in May
17 and June of 2008 in Nassau County?

18 A. Some of it.

19 MS. JOHNSON: Nothing else.

20 THE COURT: Anything, Mr. Schechter?

21 Any recross?

22 MR. SCHECHTER: No, Judge.

23 THE COURT: All right, Ms. Awan, I want to
24 thank you very much. You may step down. I want you to
25 watch yourself as you step off.

WS

Proceedings

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1 MS. JOHNSON: Your Honor, can I step out to
2 excuse her for the day?

3 THE COURT: Yes.

4 (Witness excused.)

5 (Pause in the proceedings.)

6 MR. SCHECHTER: Your Honor, I need to
7 approach for a very brief moment, please.

8 THE COURT: Yes, come on up.

9 Do you need this on the record?

10 MR. SCHECHTER: No.

11 (Discussion held at the bench, off the
12 record.)

13 THE COURT: All right, members of the jury,
14 before we begin with the next witness I just want to --
15 this is an instruction on the law that is particularly
16 relevant at this time. I would like you to pay close
17 attention to it. It deals with the testimony you've
18 just heard and I'm going to give this to you again at
19 the close of the case, but I think it's important that
20 you hear it now.

21 There is testimony in this case that on
22 another occasion the defendant engaged in conduct with
23 Sana Awan in Queens County.

24 You must not conclude or infer from that
25 testimony that the defendant had a propensity or

1 predisposition to commit any crime.

2 You may consider that testimony only to
3 permit you to evaluate the believability and accuracy
4 of the witness's testimony as it may relate to the
5 elements of forcible compulsion and intent and I shall
6 define that for you at the end of the case.

7 Again, that testimony was not offered and
8 must not be considered by you for the purpose of
9 proffering that the defendant had a propensity or
10 predisposition to commit the crimes charged in this
11 case.

12 It was offered as evidence for your
13 consideration on the question of forcible compulsion
14 and intent.

15 If you find the evidence believable and
16 accurate you may consider it for that limited purpose
17 and for no other, okay?

18 So, with that, at this point, Ms. Johnson, if
19 you would, please?

20 MS. JOHNSON: Your Honor, the People call
21 Police Officer Celica Alfaro.

22 C E L I C A A L F A R O, a witness called on behalf of the
23 People, having been first duly sworn by the clerk of
24 the Court, was examined and testified under oath as
25 follows:

Alfaro - People - direct

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1 COURT OFFICER: Officer, I'm going to need
2 you to state your name, spell your last name, your
3 shield number and command.

4 THE WITNESS: Officer Alfaro, A-l-f-a-r-o.
5 Shield number is 8865 from the 105 Precinct, Queens
6 South.

7 COURT OFFICER: Have a seat, thank you.

8 THE COURT: Officer Alfaro, if you would,
9 just if you can kindly keep that microphone relatively
10 close to you and just speak in a nice clear and slow
11 voice.

12 Ms. Johnson, whenever you're ready.

13 MS. JOHNSON: Thank you.

14 DIRECT EXAMINATION

15 BY MS. JOHNSON:

16 Q. Good afternoon, Officer Alfaro.

17 A. Good afternoon.

18 Q. Where are you currently assigned?

19 A. To the 105 Precinct.

20 Q. What Police Department?

21 A. NYPD.

22 Q. New York City Police Department?

23 A. Yes.

24 Q. How long have you worked at the 105 Precinct?

25 A. Approximately eight years.

WS

Alfaro - People - direct

579

1 Q. How long have you been employed by the New York
2 City Police Department?

3 A. Eight years.

4 Q. Do you usually wear a uniform for work?

5 A. Yes.

6 Q. Can you tell us what is the location of the 105th
7 precinct in Queens County?

8 A. 92-08 222nd Street, Queens Village, New York,
9 11428.

10 Q. What are your general duties as an officer
11 assigned to the 105 Precinct?

12 A. Patrol.

13 THE COURT: Can you hear her back there?

14 THE JUROR: Not too well.

15 THE COURT: You just have to keep your voice
16 up a little bit higher, officer.

17 Q. Officer Alfaro, I'm going to direct your attention
18 to June 24th, 2008.

19 Were you working that day?

20 A. Yes.

21 Q. In what capacity were you working?

22 A. Patrol, in a sector.

23 Q. Were you working in uniform or plainclothes?

24 A. Uniform.

25 Q. On June 24th, 2008 did there come a time when you

Alfaro - People - direct

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1 received an assignment?

2 A. Yes.

3 Q. Who gave you that assignment?

4 A. My sergeant.

5 Q. And what was the nature of the assignment that you
6 were given?

7 A. To make an arrest.

8 Q. Of who?

9 A. Mr. Gopaul.

10 Q. Harold Gopaul?

11 A. Yes.

12 Q. Do you see that person in the courtroom today?

13 A. Yes.

14 Q. Can you identify an item of clothing and point?

15 A. He's wearing a red tie over there.

16 THE COURT: All right, indicating the
17 defendant.

18 Q. Did you, in fact, insist -- assist in the arrest
19 of the defendant, Harold Gopaul?

20 A. Yes.

21 Q. Did there come a time on June 24th, 2008 that you
22 met with a female complainant?

23 A. Yes.

24 Q. And was that a woman by the name of Sana Awan?

25 A. Yes.

Alfaro - People - direct

581

1 Q. Where did you meet with her?

2 A. At the 105 Precinct.

3 Q. Did there come a time when you brought Sana Awan
4 some place other than inside the precinct?

5 A. Yes, just outside the precinct.

6 Q. Was that before or after she had met with
7 Detective Shulman?

8 A. After.

9 Q. Where did you bring Sana?

10 A. To a work vehicle.

11 Q. Where was that vehicle located?

12 A. On the side of the 105 Precinct.

13 Q. What did that vehicle look like?

14 A. It was a white vehicle with an Ecolab lettering on
15 it.

16 Q. I'm going to show you what's already been marked
17 into evidence as People's Exhibit Number 3.

18 (Shown to witness.)

19 Q. Do you recognize that?

20 A. Yes.

21 Q. What is that?

22 A. An Ecolab vehicle.

23 Q. Is that the same vehicle you saw outside the
24 105 Precinct on June 24th, 2008?

25 A. Yes.

Alfaro - People - direct

582

1 (Shown to counsel.)

2 Q. Did Sana identify any items in that vehicle?

3 A. Yes.

4 Q. What did she identify?

5 A. A massager and a mini meat cleaver.

6 Q. What did you do after she identified those items?

7 A. I took it into custody and vouchered it.

8 Q. When you say you took it into custody and

9 vouchered it what does that mean?

10 A. I vouchered it for arrest evidence.

11 Q. Did you bag it?

12 A. Yes.

13 Q. And what was the purpose of that?

14 A. For evidence.

15 Q. Did you seal the bag?

16 A. Yes.

17 Q. Where in the vehicle was both the massager and the
18 knife recovered from?

19 A. The mini meat cleaver was in the middle console
20 and the massager was inside the vehicle.

21 Q. I'm going to show you what's already been marked
22 into evidence as People's Exhibit 4.

23 (Shown to witness.)

24 Q. Do you recognize both the bag and the contents?

25 A. Yes.

Alfaro - People - direct

583

1 Q. What do you recognize it to be?

2 A. The massager that I vouchered inside the vehicle.

3 That was inside the vehicle.

4 Q. The one you just described?

5 A. Yes.

6 Q. I'm going to show you what's already been marked
7 as People's Exhibit 5 in evidence.

8 (Shown to witness.)

9 Q. If you could take a look at that?

10 Do you recognize that, Officer Alfaro?

11 A. Yes.

12 Q. What do you recognize that to be?

13 A. The mini meat cleaver that I vouchered that was
14 inside the vehicle.

15 Q. The one you previously -- you just described to us
16 recovering from that Ecolab van on June 24th, 2008?

17 A. Yes.

18 MS. JOHNSON: Thank you.

19 COURT OFFICER: Could she take the gloves
20 off?

21 MS. JOHNSON: Yes, thank you.

22 Q. Officer Alfaro, did you have the opportunity to
23 observe the defendant on June 24th, 2008?

24 A. Yes.

25 Q. Did you observe any injuries on his body?

Alfaro - People - cross

584

1 A. No.

2 Q. Did he complain of any injuries?

3 A. No.

4 Q. Did he ask for any medical attention?

5 A. No.

6 Q. Did he indicate he was in any pain?

7 A. No.

8 MS. JOHNSON: I have no other questions for
9 Officer Alfaro.

10 THE COURT: Mr. Schechter?

11 CROSS-EXAMINATION

12 BY MR SCHECHTER:

13 Q. Officer Alfaro, good afternoon.

14 A. Good afternoon.

15 Q. What was your tour of duty on June 24th, 2008?

16 A. 11:15 p.m. to 0750 a.m.

17 Q. And you're a uniform officer, are you not?

18 A. Yes.

19 Q. Okay, and you got to duty 11:15?

20 A. Yes.

21 Q. And approximately at what time did -- were you
22 asked by your sergeant to participate in an arrest?

23 A. I don't recall.

24 Q. I'm sorry?

25 A. I don't recall.

WS

Alfaro - People - cross

585

1 Q. Well, were you on patrol --

2 A. Yes.

3 Q. So you were on patrol at that point, is that
4 correct?

5 A. Yes.

6 Q. And you said assist, assist in arrest.

7 Was Mr. Gopaul resisting arrest?

8 A. No.

9 Q. Was he acting violent?

10 A. I was already on patrol.

11 Q. Sorry?

12 A. I was on patrol.

13 Q. Well, you told the jury that you assisted in his
14 arrest.

15 Well assist in his arrest means there were other
16 officers involved in his arrest, correct?

17 A. I processed the arrest.

18 Q. Well, what other officers were involved in his
19 arrest?

20 A. I don't recall.

21 Q. Well, when you assist somebody you normally assist
22 somebody, is that correct, officer?

23 MS. JOHNSON: Objection.

24 THE COURT: Yeah, sustained as to form.

25 Q. Officer, how long have you been a police officer?

Alfaro - People - cross

586

1 A. Approximately eight years.

2 Q. And in the eight years you know when the word --
3 what the word assist means, don't you?

4 A. Yes.

5 Q. And the word assist means that you participated
6 with other people in arresting Mr. Gopaul, is that correct?

7 A. Yes.

8 Q. I ask you again, do you have anything that you can
9 recall that would refresh your recollection about with whom
10 you participated in the arrest of Mr. Gopaul?

11 A. I didn't do the initial arrest.

12 Q. Well, I'm a little confused.

13 Didn't you just tell the jury that you placed him
14 under arrest?

15 A. I was the arresting officer.

16 Q. Well, if you were the arresting officer then who
17 placed him under arrest?

18 A. I don't recall.

19 Q. Well, why would you be the arresting officer if
20 you didn't place him under arrest?

21 A. Because there was an open 61 on him.

22 Q. Well, he was already in custody when you got to
23 the precinct, wasn't he?

24 A. Yes.

25 Q. And he was already upstairs, was he not?

Alfaro - People - cross

587

1 A. Yes.

2 Q. And he obviously was in contact with other police
3 officers before you placed him under arrest, isn't that so?

4 A. I wasn't there. I was on patrol.

5 Q. Officer, the man is in the precinct in a room
6 upstairs.

7 Is it your testimony you have no knowledge of
8 whether other officers were in his presence during the time
9 he was in the precinct?

10 A. Yes.

11 Q. Now, officer, going back a little bit,
12 approximately what time did you place Mr. Gopaul under
13 arrest?

14 THE WITNESS: I would like to refresh my
15 memory?

16 May I look at it in my memo book?

17 Q. Please.

18 A. I'm looking at my memo book.

19 Q. I'm sorry?

20 A. I'm looking at my memo book.

21 Q. Okay.

22 A. Approximately --

23 Q. Please don't read from it, just refresh --

24 A. Approximately 0455.

25 Q. That's 4:55 in the evening, correct?

Alfaro - People - cross

588

1 A. In the morning.

2 Q. In the morning.

3 And you did not know what time Mr. Gopaul had
4 gotten to the precinct, do you, of your knowledge?

5 A. No. No.

6 Q. Now, now after you processed Mr. Gopaul or, as you
7 say, placed him under arrest, even though he was already
8 under arrest, did you speak to the complainant?

9 A. Yes.

10 Q. Did you speak to the complainant before you placed
11 him under arrest or after?

12 A. After.

13 Q. If you were the arresting officer why didn't you
14 speak to the complainant before you placed him under arrest?

15 A. Could you rephrase the question?

16 Q. Yes.

17 If you were the arresting officer why didn't you
18 speak to him -- speak to the complainant before you placed
19 him under arrest?

20 A. Because there was an open complaint report.

21 Q. But he was already in custody, officer, so
22 obviously some other officer had placed him under arrest,
23 isn't that true?

24 A. Yes.

25 Q. So there was no longer an open 61, was there?

Alfaro - People - cross

589

1 A. No.

2 Q. So what you just testified to is not really
3 accurate, is it?

4 A. Yes.

5 Q. Now, officer, when you placed him under arrest
6 where was he?

7 A. He was up in the squad.

8 Q. Now, in your memo book you told us you started
9 work 11:15 a.m.?

10 MS. JOHNSON: Objection, as to the form.

11 MR. SCHECHTER: I'll rephrase the question.

12 Q. You told us you began work 11:15 a.m., correct?

13 A. No, 11:15 p.m.

14 Q. P.m., my bad. 11:15 p.m.

15 And you were scheduled to work until when?

16 A. 7:50 a.m.

17 Q. 8 in the morning, basically, correct?

18 A. Yes.

19 Q. Now, the next entry in your memo book is from
20 2124, is that correct?

21 MS. JOHNSON: Objection.

22 THE COURT: Yeah, sustained as to form,
23 unless you want to offer her memo book.

24 Q. How long were you working on this case?

25 A. Until 2250.

WS